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ABSTRACT

This document consists of a study unit and an accompanying teacher's guide prepared to assist teachers and community groups in discussing some of the legal and constitutional issues raised by the verdict in the Rodney King beating case. The study unit's first section, "Trial and Verdict," examines such issues as the public perceptions of the state criminal trial, the prosecution's burden of proof, the use of reasonable force, and the verdict in the case. Section 2, "Aftermath," explores aspects of the incident including the second, federal trial of the defendants, the concept of double jeopardy, and the role of plea bargaining. Student activities underscore many of the principles and ideas that the King beating and trials raise. Activities include questions for discussion, role playing scenarios, and policy analyses. The document concludes with a bibliography of sources, including governmental records, newspapers, periodicals, media resources, curriculum resources, and other items relevant to the Rodney King incident and the issues that it raises. In the teacher's guide the major instructional techniques utilized in the materials included: (1) reading and directed discussion, (2) video presentation and directed discussion, (3) interactive activities, (4) policy questions, and (5) taking action. The guide contains different options for the instructor, a guide for identifying and preparing resource volunteers, and a list of sources. (DK)

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Constitutional Rights Foundation

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Constitutional Rights Foundation
Publications Committee

Written and Designed by
Marshall Croddy

Editors
Lisa Friedman, Bill Hayes, John Shannon

Reviewers
Jerome C. Byrne, Paul W. Cane Jr.,
Raymond C. Fisher, Bondie Gambrell,
Lloyd M. Smith, Terry White

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Ieshia Black, Jesse Church, Carolyn Cunningham,
Keri Doggett, Hal Ellis, Eleanor Song, Elenor Taylor

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Reviewing the Verdict

Issues of the Police, Justice and Change

Participant Materials

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INTRODUCTION

Few trials in recent history have received more attention than the trial of the four officers for the beating of Rodney King. Officially, it is called, *People versus Powell, Wind, Briseno, and Koon,* but is better known as the Rodney King beating case. It is too early to tell how historians will judge this criminal trial, but it has already had a great impact on a city and the nation.

Beyond the legal significance of the case, the verdict sparked one of the most destructive civil disturbances in our nation's history. The trial and verdict also spurred widespread reform efforts in Los Angeles law enforcement and set off heated debates about fundamental issues of justice in our society.

- Do the police treat people of color more harshly than other citizens? How can we assure that the police have adequate power to enforce society's laws, but do not abuse citizens' rights?
- Do the courts dispense equal justice or do their procedures and decisions have unjust or racist results?
- What does the case tell us about how we as a society determine the guilt and innocence of criminal defendants?

Finally, the case raises questions about our understanding of the criminal justice system. Do citizens have enough information about how the system works to make informed decisions about it? Do they understand its basic legal doctrines such as reasonable force, reasonable doubt, change of venue and a trial by one's peers? Did media coverage of the trial of the four officers contribute to the public's reaction to the verdict? How does our system of justice function in an age of mass electronic media, instant analysis and political turmoil?

There is a great diversity of opinion and little consensus on many of these matters. Reasonable people will disagree about the answers. Advocates from one side or the other will even disagree about basic facts and their meaning.

The purpose of this publication is to examine some of the issues raised in the trial and after the verdict in the case of *People v. Powell.* In Section I, **Trial and Verdict,** you will examine the events of the night Rodney King was beaten from both the perspective of the prosecution and the defense. Next, you will examine the law the jury was instructed to follow in reaching its verdict. Then, you will learn about some of the controversial legal issues raised about moving the trial to Simi Valley and selecting the jury. Finally, you will get an inside view of how the prosecution and defense conducted the case, their view of the facts, the evidence they presented and the arguments they made.

In Section II, **Aftermath,** you will examine reactions to the verdict and explore the role of the media in informing the public about the trial

and other legal issues. Then you will learn about two pending cases which followed the verdict: the federal prosecution of the four officers and the trial of the four men accused of beating truck driver Reginald Denny hours after the *People v. Powell* verdict was announced. You will also examine how the case has prompted reforms to Los Angeles law enforcement and how better police-community relations can be developed.

Along the way, you will get the opportunity to tackle some of the tough questions related to the case and the issues it raised. You will step into the shoes of lawyers, judges and police officers and be asked to grapple with the kinds of decisions they have to make. You will also take the role of members of a policy-making commission to make recommendations about issues raised in public debate concerning the case and its implications to the criminal justice system.

activity

perceptions OF THE TRIAL

This activity is designed to identify your perceptions about the trial. Take a few minutes and answer the following questions.

1. Based on your knowledge of the trial, what were the major facts of the case?

2. What were the major legal issues of the trial?

3. Based on your understanding of the facts and legal issues, did the jury in the case come to a just verdict? Why or why not?

4. Where did you get your understanding of the facts, legal issues and verdict of the trial? (Be as specific as possible.)

the police and RODNEY KING

Editor's Note: *The following description of the arrest of Rodney King is based upon actual trial footage and, wherever possible, primary sources. Numerous secondary sources reporting on the testimony and evidence at trial were also used. Notably missing is Rodney King's own version of the events. He was not called as a witness by either the prosecution or defense at the state trial of the police officers. Also, since this piece attempts to describe the evidence as experienced by the jury in the state trial, no new evidence or arguments presented at the federal prosecution of the officers is included.*

It is also important to note that the jury was never presented with a description of the events in sequential order. Trials operate differently. Because of the rules of trial procedure and evidence, witnesses testify about events only on the basis of what they personally saw and heard. Experts who give opinions about the matters at trial must be qualified to do so. Also, the adversary nature of a criminal trial assumes that each side, prosecution and defense, will present and argue the facts in a way helpful to its position. It is up to the jury to determine whether the testimony of the witnesses are accurate and which side's arguments about them are valid.

While both the prosecution and defense appeared to be in general agreement about many basic facts, they strongly disagreed about their significance, legal meaning and interpretation.

On March 3, 1991 at about 12:30 a.m., two California Highway Patrol officers, Tim and Melanie Singer, spotted a car driving at high speed on the freeway. Refusing to pull over, the car led the husband and wife team of officers on a fast eight-mile chase. It started on the freeway at speeds in excess of 100 mph, then moved to surface streets at 60-80 mph. The Highway Patrol officers called for help from the Los Angeles Police Department. Soon its patrol cars joined the chase.

Inside the car were three African-American males. Rodney Glenn King was the driver. One of the passengers, Bryant Allen, later testified that during the chase King was "acting strange" and refused to pull over. Allen claimed to be so scared that he wanted to jump out of the car, but couldn't. King's other companion, Freddie Helms, died in a traffic accident before the trial began.

Suddenly the car pulled up and stopped in the second lane of a residential street in Lakeview Terrace, a Los Angeles suburb. CHP and LAPD units quickly surrounded it. An LAPD helicopter arrived and circled over head. According to police testimony, they ordered Rodney King to get out of the car and lie flat on the ground. At first, he did not respond. His two male passengers did follow the officers' instructions and left the vehicle. According to Allen's testimony, they lay flat and were handcuffed, but that he felt "somebody's kick or stomp."

Members of the LAPD on the scene included Officers Laurence Powell, Timothy Wind, Theodore Briseno, and Sergeant Stacey Koon. Eventually 19 officers, including the two members of the Highway Patrol and two Los Angeles Unified School District police who were in the area, would arrive on the scene.

According to officer testimony, King's behavior was erratic and threatening. CHP Officer Melanie Singer, a prosecution witness, testified that once out of the car, King placed one hand on top of the car, but then twisted around and obscured his other hand. Fearing that he might be armed, she drew her firearm and moved to arrest King. LAPD Sgt. Koon ordered her to stop and then took command.

According to police officers, King refused their orders to lie face down on the ground with his arms and legs spread. They testified that they wanted him in this position so that he could pose no threat to them. They also wanted to search him for weapons. Instead, according to their testimony, he laughed, made obscene gestures, including shaking his buttocks at the officers, and waved at the helicopter. According to several of the officers, he seemed to be making a joke of them.

Then, according to officers testimony, King began to follow their orders. He got down on the ground on all fours. The officers testified that they tried to handcuff him in this position. According to Sgt. Koon, he ordered the other officers to take hold of King's arms or legs, but King rose up and shook them off, knocking two of

them to the ground. Then, according to the officers, King stood up again.

At this point, Koon decided to use a Taser stun gun to subdue him. This weapon fires wire-connected darts charged with 50,000 volts of electricity that typically render its victim helpless. Koon testified that he warned King, but instead of getting down, King moved toward him. Koon then fired a dart. According to officers, the first charge had little effect on King who stood six feet three inches tall and weighed 250 pounds. Again King was warned, but failed to get down. Koon fired a second charge which caused King to fall. According to officers, he continued to struggle. They also testified that he ignored orders to lie flat and motionless on the ground with his arms and legs spread to be handcuffed. Based on King's behavior and his failure to follow orders, officers testified that they believed King was under the influence of the drug PCP. This is a powerful drug that can cause irrational and violent behavior in users. It also makes users less sensitive to pain.

Unknown to the officers or Rodney King, across the street several neighbors, alerted by the sound of the sirens and helicopter, had been watching the police trying to arrest King. One of them, George Holliday, grabbed his video camera and began taping at approximately 12:52 a.m. Eighty-one seconds of the video captured the beating. The following is a description of the video.

Three officers, Powell, Wind and Briseno surround King with their PR-24 metal batons drawn. Koon stands by, holding the dart gun with its wire-connected darts still connected to King. The other officers on the scene watch from a distance.

Approximately five seconds after taping begins, King is shown swiftly rising and moving quickly. The prosecution will argue that he is trying to escape. The defense will claim he is trying to attack. Powell steps into the path of King's rush and delivers a stroke to the body with his baton. This is the first recorded baton blow. King is knocked to the ground and Powell showers him about 10 times with his baton while King continues to try to stand up. On the tape, it is difficult to tell where the blows are landing because the scene is partially blocked by a car. The prosecution will argue that some of these blows were directed at, and hit, King's head. The defense will argue that they are directed at the body and did not strike the head, or if they did, it was by accident. The camera then goes out of focus for a moment.

When the camera refocuses, King is lying flat and no one is hitting him. Both officers Powell and Wind have their batons raised. Officer Briseno, at this point, grabs Powell's baton. He later testifies that he did so to restrain any more blows. A prosecution expert on the use of force will argue that all the baton strokes after this point are unreasonable.

Some 30 seconds after the taping begins, King struggles to his knees. Officers testify that they continue to order him to lie flat. He is beaten down again by Powell and Wind.

The blows continue on and off for some 49 seconds as King struggles face down on the ground. The interpretation of King's movements at this point are controversial. The prosecution will argue that King is helpless and making no threatening movements. According to the defense interpretation, the officers saw King reach-

ing toward his waistband or rising up on his hands or pulling his knees up under him preparing to attack or escape. Then King stays still.

At this point, Officer Briseno forcefully jams his foot onto the back of King's neck and Powell moves his baton to his left hand and reaches behind him for his handcuffs. Briseno's defense will claim that he was trying to keep King down to avoid further blows. The prosecution will argue that Briseno assaulted King with a stomp. But King starts moving again. Again, this movement is controversial. The prosecution will claim that the movement offers no threat; the defense will claim that the officers interpreted it as a renewal of aggression on King's part. The officers resume the beating for nine more seconds while King is almost motionless on the ground. All in all, nearly 56 blows have landed, over 40 delivered by Powell and approximately 15 by Wind.

Six or seven officers surround King, pressing down on him with their knees and feet while he is in a sitting position, and handcuff him. The rest of the video, some seven minutes, shows King hog-tied lying on the ground with officers milling around.

Police then called for an ambulance to take King to a hospital. According to prosecution witnesses, Powell was laughing when he made the call. The defense denied that Powell was laughing, but was merely breathing heavily as a result of nervousness and exhaustion. The prosecution argued that his laughing showed his attitude about the beating.

On the way to meet King at the hospital, Powell sent a message to another officer on his squad car computer. In it he said, "Oops, I haven't beaten anyone like that for a long time." Once there, according to nurses at the hospital, he taunted King. He compared the beating to a baseball game and said that the police, "played a good game of hardball" and "hit quite a few home runs."

Koon also sent a computer message to another officer, "Big time use of force—beat and tazed."

At the hospital, King is examined and treated for numerous injuries. He had significant bruising on his arms, legs and torso. On the chest, he had taser burns and was disoriented from its effects. He also had minor head wounds. More seriously, on the face, he had suffered three fractured cheek bones and cuts requiring 20 stitches to close. He also had a broken lower leg, a fracture of the tibia.

It was also determined that King had not taken PCP or other drugs. But he did have a blood-alcohol reading of .19, about twice the legal limit for driving.

After the incident, the officers filed an official report which differed from what the videotape showed and how witnesses recalled the events. This would become the basis of one of the criminal charges.

For Discussion

1. According to the reading, what events led up to the beating and arrest of Rodney King?

2. Who was the source for the description of events before the videotaping began? How might Rodney King's version of the events differ from this account? Why?

3. What are the differences between eyewitness and videotape evidence? What advantages does videotape have over eyewitness evidence? What weaknesses does videotape evidence have?

4. What evidence described in the reading, if any, expands on your knowledge of the case? Did the media portray these events differently? Did the media portray these events as completely? What might account for the difference?

the public REACTS

The next day Holliday took his video to KTLA, a local television studio. The station paid Holliday a small standard fee for the video and aired it during its news programs. Soon the networks picked up the tape and broadcast it nationwide. The response was immediate and overwhelming. Millions of Americans reacted with shock at the brutal images portrayed on the tape.

Local and national political leaders condemned what they described as brutality, including President Bush and Los Angeles Mayor Tom Bradley. The leadership of the Los Angeles African-American community expressed even greater outrage. For their community, the video of four white LAPD officers severely beating a downed black man while other officers stood by crystallized years of frustration over police tactics in the inner city. Recently, the aggressive methods used in the war on drugs and to suppress youth gangs had alienated many blacks and other groups in the inner city. Also, as a matter of history, African-Americans and other people of color have been subjected to police abuse both in Los Angeles and in other places around the country. In a Los Angeles Times opinion poll taken shortly after the Rodney King beating, 79 percent of the black community disapproved of how the LAPD was handling its job.

In addition, the African-American community in particular was also angry over the killing of Latasha Harlins. In that case, a Korean woman shopkeeper, Soon Ja Du, had confronted an African-American teen-age girl in her grocery store. At the trial, her defense argued that she thought Harlins was trying to steal some orange juice. However, the girl produced the money at the counter, but then struck the shopkeeper in the head.

As she turned to leave the store, Soon Ja Du shot her in the back of the head and killed her. The jury later returned a manslaughter conviction, but the judge's sentence carried no prison time. Many in the black community protested what they considered a very light sentence and a campaign was mounted to recall the judge, but the effort failed. The shooting of Latasha Harlins,

The videotape of the beating and related issues sparked many heated debates. (AP/Wide World Photos)

too, had been captured on videotape and all of these events played out as the case against the four officers advanced.

Within days of the King incident, investigations were launched by the police department and the county grand jury. In addition, the FBI also began an investigation. By March 15, four officers, Powell, Wind, Briseno and Koon had been indicted on state criminal charges.

Many complained that the police department, after starting its internal investigation, was slow in taking action. Finally, six weeks after the indictment, Police Chief Daryl Gates ordered disciplinary measures against the officers. Powell, Briseno and Koon were suspended without pay. Wind, an officer still on hiring probation, was fired. Chief Gates claimed that due process requirements of the department's internal affairs procedures caused the delay, but others charged that the department was just trying to protect its officers.

The uproar over the King beating as revealed on the videotape intensified. Mayor Bradley appointed a commission headed by former Deputy Secretary of State Warren Christopher. Christopher is now United States Secretary of State under President Bill Clinton. The job of the Chris-

topher Commission would be to study the practices and procedures of the police department. Chief Gates also appointed a commission to study the issues. It was headed by former California Supreme Court Justice John Arguellas. Eventually these two bodies were combined to form one seven-person commission. The investigations by the commission and other bodies revealed a large number of police brutality charges against 44 "problem" LAPD officers of the approximately 8,000 officers on the force. Later, it also called for the early retirement of Chief Gates.

The commission also discovered that some 100 officers had used police computer message equipment to make derogatory remarks against citizens. Although a very small percentage, some of the remarks had racial overtones. Officer Powell himself, some 35 minutes before the officers began pursuit of Rodney King, had sent a message describing a domestic dispute involving an African-American family as being a scene out of "Gorillas in the Mist." (This was apparently a reference to a popular movie about a woman scientist who studied gorilla behavior in Africa.) Later, he denied that his message was based on race.

Public opinion seemed to reflect these on-going controversies. In a Los Angeles Times poll, only 34 percent of people in Los Angeles approved of the way the LAPD was handling its job.

The incident also helped stir a bitter political struggle in the city. The mayor, city council, police commission, community organizations and Chief Gates battled over the issue of the chief's dismissal or retirement. Chief Gates claimed that he was ready to retire, but would choose his own time. Others wanted him to step down as soon as possible and give a definite date. In the midst of this debate, a city charter amendment was placed on the ballot to change the provisions for appointing and removing the chief of police. Daily news coverage reported on each new development.

As the political battles continued, preparations for the trial of the four officers moved forward.

For Discussion

1. What happened in the Latasha Harlins case? How did this contribute to the controversy over the Rodney King beating?

2. What governmental bodies investigated the King beating? What findings and decisions did they make?

3. What controversies arose over the police investigation of the beating? What action did the LAPD take against the four officers?

4. Which of these facts in the reading, if any, expand on your knowledge of the case? Did the media portray these facts accurately?

a c t i v i t y

taking action/what's the PROBLEM?

Whether in Los Angeles or in other communities, the issues of law enforcement are important. Police-community relations vary from place to place. But for relations to improve, it is important that both the police and the people they serve have a better understanding of one another. Everyone can get involved. Finding out about potential problems can be the first step in addressing them. Conduct the following activities to find out the state of police-community attitudes where you live.

Survey 1

Each member of your group should answer the following questionnaire. Tally the answers on the chalkboard. Then hold a discussion about the results.

a. Police in my community treat most teen-agers fairly.

_____Strongly Agree _____ Agree _____Unsure _____Disagree _____Strongly Disagree

b. The police in my community are doing a good job.

_____Strongly Agree _____ Agree _____ Unsure _____Disagree _____Strongly Disagree

c. Police officers in my community generally avoid using physical force against people.

_____Strongly Agree _____Agree _____Unsure _____Disagree _____Strongly Disagree

d. Police officers in my community generally treat wealthy people the same as poor people.

_____Strongly Agree _____Agree _____Unsure _____Disagree _____Strongly Disagree

e. Police officers in my community generally treat males the same way as females.

_____Strongly Agree _____ Agree _____Unsure _____ Disagree _____Strongly Disagree

f. Police officers in my community generally treat all racial groups in the same way.

_____Strongly Agree _____Agree _____ Unsure _____Disagree _____Strongly Disagree

g. Police should have the right to use whatever means are necessary to capture criminals.

_____Strongly Agree _____ Agree _____Unsure _____ Disagree _____Strongly Disagree

h. The police often abuse their authority.

_____Strongly Agree _____Agree _____Unsure _____ Disagree _____Strongly Disagree

i. To improve police-community relations, I would suggest:

Survey 2

Construct a survey to give to community members. You may wish to conduct one survey for the general population, or several surveys directed at specific groups, e.g. homeowners, college students, women and men, racial groups, religious groups, business persons, etc. Here are some additional statements you might consider using in your surveys.

- Everyone in the community is responsible for good law enforcement.
- Police in the United States are often criticized unfairly.
- Police in the community enforce drug laws too strongly.
- I would call the police if I saw someone break into a store.
- I would call the police if I saw a friend stealing a car.
- In the past four or five years, my attitude about the police has become less favorable.

When you have completed your surveys, tally the results and answer the following questions:

1. How do the results of Survey 1 and Survey 2 compare? What are the differences? What might account for the differences?
2. Based on the results of the surveys, what are the most common concerns about the police?
3. Based on the results, what specific police-community problems need to be addressed?
4. What suggestions were made to improve police-community relations? Which of these suggestions are the most workable?

the law of the case and
THE PROSECUTOR'S BURDEN

The case against officers Laurence Powell, Timothy Wind, Theodore Briseno and Sgt. Stacey Koon consisted of five criminal counts.

Powell, Wind, Briseno and Koon were accused of violating Section 245 (A) (I) of the California Penal Code—assault with a deadly weapon. This section provides that every person who assaults another person with a deadly weapon or with force likely to produce great bodily injury is guilty of a crime. Powell and Wind were the only officers who actually used their batons on King. They were charged with personally inflicting the injury with "specific intent" to do so. Under the penal code, this could lead to a more severe sentence.

In count II all the defendants were charged with violating penal code section 149. It states, "Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is guilty of a violation...."

In addition, Powell, Wind and Koon were charged with "aiding and abetting" (helping one another) in the beating, and multiple acts of assault. Officer Briseno was not charged with helping the others. He was charged with only one act, when he jammed his foot on King's neck forcing his head down to the ground.

The remaining charges, in counts III, IV and V, involved filing a false police report and being an accessory to a felony after the fact. Powell and Koon stood accused of filing false reports of the incident. The prosecution charged that the reports differed considerably from what witnesses and the videotape showed happened that night. Sgt. Koon alone was accused of trying to help the officers accused of the felony avoid arrest, trial or conviction.

The Prosecution's Burden

To gain a conviction in the case, as in all criminal cases, the prosecution had to overcome a presumption that the defendants were innocent. To do so, the prosecution had to prove each element of each crime charged "beyond a reasonable doubt." In addition, a verdict of guilty would require a unanimous jury verdict. That is, all 12 jurors selected would have to agree that there was no reasonable doubt as to the guilt of the officers.

As Judge Stanley Weisberg, the trial judge, stated in the standard instructions to the jury:

> "A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to a verdict of not guilty.
>
> "This presumption places upon the people (the prosecution) the burden of proving him guilty beyond a reasonable doubt.
>
> "Reasonable doubt is defined as follows:
>
> "It is not a mere possible doubt, because everything relating to human affairs and depending on moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all of the evidence, leaves the mind of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge."

Under the law, a burden is a standard of proof or requirement one side or the other must overcome to win a case.

Lawful Necessity

Our society and the law gives police officers great power and wide discretion in the performance of their jobs. As a result the law has special provisions for police officers. An officer cannot be convicted of assault with a deadly weapon or beating under the color of authority, unless the officer had criminal intent and lacked "lawful necessity" for doing so.

Judge Weisberg described the law to the jurors in the following manner:

> "A peace officer who is making a lawful arrest may use reasonable force to make such arrest or to prevent escape or to overcome resistance."

"It is lawful for a peace officer to use force in the arrest if a reasonable peace officer in the same or similar circumstances would believe that such force is necessary to make the arrest or to prevent escape or overcome resistance."

Judge Weisberg went on to explain that under the law, there are limits to what a police officer can do.

"When that force would no longer appear to a reasonable peace officer, in the same or similar circumstances, to be necessary, the right to use reasonable force no longer exists and the use of such force is not reasonable. The use of force that is not reasonable is unlawful and without lawful necessity."

Important to the prosecution's case was one more key factor. As stated by Judge Weisberg in his jury instructions:

"The people have the burden to prove that the force used was not lawful and without lawful necessity. If you have a reasonable doubt that the use of force was unlawful and without lawful necessity, you must find the defendant not guilty."

The prosecution has additional problems when the defendants on trial are police officers. Most jurors tend to give the police the benefit of the doubt because they understand the difficulty and danger of enforcing the law and they want to combat crime. In addition, most jurors tend to believe the word of a police officer over other witnesses.

Based on the law, the prosecution had its work cut out for it. In the case of the Rodney King beating, the issue would come down to this: Did the officers have legal justification for their actions and did they use a reasonable level of force under the circumstances? To convict the officers of the crimes charged, the prosecutors would have to prove beyond a reasonable doubt to all twelve jurors that they did not.

For Discussion

1. What were the major charges against the four officers?

2. What did the doctrines of legal necessity and reasonable force have to do with the trial?

3. What legal burdens did the prosecution have in proving its case? Why are these required?

4. Are the instructions the judge gave clear and understandable? Would you have been able to apply them in the case against the four officers? Why or why not?

5. Based on the facts and the law of the case, what facts support the prosecutor's case? What facts support the defense case?

6. Which, if any, of these legal issues expand your knowledge of the case? Did the media accurately describe these issues? How or how not?

"...beyond a reasonable doubt..."

what is reasonable FORCE?

A key question in the trial of the four officers for the Rodney King beating was whether the officers' use of force in the arrest was reasonable. That is, would a reasonable police officer in the same or similar circumstances believe that such force was necessary to make the arrest, to prevent escape or to overcome resistance? But how does a jury determine what a reasonable officer would or should do?

In general, federal and state laws and court decisions help define appropriate police conduct. These laws and precedents then influence the development of local police department procedures. For example, when the U.S. Supreme Court made its *Miranda* decision requiring police to give suspects certain warnings, thousands of police departments across the country had to change their methods for making arrests. Police also had to be trained in using these new procedures.

Local police regulations and what police learn in training greatly influence police behavior. How police are taught to behave helps define what is reasonable in a certain circumstance on the streets. On-going police training prepares officers for the dangers they may confront while on duty. It teaches them about the law and how to use the weapons they carry. Police officers also learn how much force may be used in a specific case.

As a general rule, police are permitted to use only the level of force that is reasonable and necessary in a particular situation. For instance, shooting a suspect who has surrendered or clubbing a suspect with a nightstick when a simple arm hold would suffice are not reasonable and necessary.

In training programs, police officers practice adjusting the level of force they use to the circumstances. For each situation—be it an arrest, crowd control, or citizen confrontation—they are taught to begin with the lowest level of force possible. They should only escalate the level of force if the situation requires it. For example, if a suspect quietly submits to an arrest, a simple pat-down search and handcuffing are all that is necessary. But if the suspect suddenly throws a punch, a higher level of force is probably required. This might be using a physical-restraint technique or a baton.

All of this works well in theory. On the street, other factors—including fear, anger, darkness and split-second changes—can make deciding what force is reasonable and necessary much more difficult. Therefore, many police officers are trained not to take chances with their own lives, those of fellow officers or members of the public. Because of this training, police learn to escalate force to whatever level is necessary to overcome resistance or threat.

LAPD officers undergo extensive training in use of force. Its program is among the most rigorous in the nation. Its tactical training favors a "pain compliance" approach. This means that if met with resistance, an officer is trained to inflict increasing levels of pain on a suspect until he or she complies with the officer's orders. This approach is part of an aggressive strategy, designed to give the relatively small number of officers on the street, the greater measure of control against suspected lawbreakers.

Recent cases and findings, including the beating of Rodney King and the report of the Christopher Commission and other bodies, have placed these tactics under intense public scrutiny. Among the tactics which have been highly criticized were the use of police dogs to attack suspects often causing serious injury and the use of choke holds to subdue suspects. The use of choke holds was hotly debated because of several deaths of African Americans which occurred as a result of this tactic. The LAPD was forced to abandon this tactic before the King arrest under intense public pressure and in settlement of a law suit filed by the American Civil Liberties Union.

Critics of the aggressive strategy claim that these methods promote brutality and it would be better to increase the size of the force and use less aggressive tactics. Others go further and claim that unnecessarily aggressive tactics are most often used in inner-city neighborhoods

against people of color and demonstrate more deeply seated discriminatory police attitudes. Supporters of the police have argued that these tactics are required especially in areas were guns and violence are common to protect the safety of officers who patrol them.

Police use of deadly force, especially firearms, is often highly publicized and controversial. Deadly force is commonly defined as "force that poses a high risk of death or serious injury to its human target, whether or not death or serious injury actually results." Laws governing the use of deadly force are found in state criminal codes. Some police agencies and departments have even stricter standards for their officers. But, in this area too, the LAPD is considered to be aggressive. In 1992, officer involved shootings reached a 10 year high. Even reducing the number by those which arose out of the April riots, this number is higher per 1,000 officers than in other large American cities, including New York and Philadelphia.

The following factors, among others, are used in determining whether deadly force is justified in a particular situation:

- The officer is making an arrest for a felony violation (in general, deadly force is not justified in apprehending a person suspected of committing a misdemeanor or lesser offense).
- The officer has made the reason for the arrest known to the suspect.
- The officer believes that deadly force is necessary to prevent death or great bodily injury to the officer or another person. This often arises when a suspect is armed and threatens force.
- The officer believes that the deadly force does not create a substantial risk to innocent persons.
- The criminal used deadly force or probably will use it if arrest is delayed.

Police are also trained in non-deadly force techniques. These include physical restraint, self-defense techniques, the use of chemical weapons, such as Mace, and electronic weapons to stun a suspect. Use of the police baton can constitute either non-deadly or deadly force. If a police officer hits a suspect on the arms, legs or torso to cause pain to force the suspect to give up, it is generally considered non-deadly force. If the baton is used to give blows to the head, neck or spinal cord it can be considered deadly force.

For Discussion

1. Why might deciding what force is reasonable and necessary be difficult for a police officer in the field?

2. Did the officers in the Rodney King arrest appear to use escalating force? Did they apply it in a reasonable and necessary way? Why or why not?

3. Does your local police department have a written policy regarding the use of deadly force? If so, ask for a copy and compare it to the basic rules from the reading.

Policy Question/Proning: Some of the complaints against the LAPD relate to its field tactics. For example, in the King situation, the officers claimed they were trying to force Rodney King into a prone position for handcuffing. This technique minimizes possible threats to the officers. Many people, especially in inner-city neighborhoods, claim that they are often subjected to this technique for little or no reason. Some propose that a new policy be adopted so that suspects are not forced to lie prone unless they actually threaten a police officer or there is cause to believe that they are armed.

Supporters claim that this proposal will help protect minority suspects from abuse or humiliation. It will also eliminate a major obstacle to better police-community relations.

Critics argue that the policy would endanger the lives of police and bystanders, because it is often difficult to predict whether a suspect is armed until a pat-down search is made. The prone position is the safest for conducting this search.

a c t i v i t y

reasonable

FORCE IN ACTION

Introduction: Imagine that you and a partner are police officers patrolling the streets. Your department, like all other police departments, has a use of force policy. It is based on trying to match the level of force to the circumstances. Under department rules, depending on the circumstances, there are several levels of force and certain options at each level. They are:

Low Force Options

- Verbal commands to stay in or get out of the car, stand or sit on the curb, stand for a pat-down search or lie prone on the ground, or turn around to be handcuffed;
- Physical touching to direct the citizen to follow the commands; and
- Handcuffing.

Non-deadly Force Options

- Wrist restraint or other hold to cause pain;
- Swarm technique, tackling the citizen if sufficient officers are present;
- Use of Mace or other chemical;
- Use of Taser or stun gun to subdue citizen; and
- Use of baton on legs, arms or other non-vital parts of the body.

Deadly Force Options

- Use of baton to strike head, neck or other vital parts of the body; and
- Use of firearm.

Directions:

Before responding to the following field contact situations, review the reading on reasonable force and your department's force options. Then with your partner, discuss Situations A, B and C below and answer the questions that follow.

Situation A

You are in your squad car when you observe a motorcycle rider pass you at a high rate of speed. He is traveling at least 55 in a 35-mph

zone. You follow him and turn on the flashing lights to pull him over, but he accelerates. You chase him for several miles, down side streets and through several alleys, until he makes a wrong turn into a dead end. His bike screeches to a halt and he jumps off. Immediately, he runs toward your squad car, screaming that he is tired of "all of these police hassles." He is a very large man, dressed in black leather and wearing a helmet. His fists are doubled up and he pounds on the hood of the squad car. You order him to stop and calm down, but he continues to pound the car. A back-up car arrives with two additional officers, but in spite of orders to lean against the car or lie on the ground, the man continues to pound on the car and scream.

- What level of force is appropriate under these circumstances?
- What force option should you use?
- What circumstances justify your decision?

Situation B

You are called to investigate a domestic disturbance. It is midnight. Neighbors report screaming and a gun shot. You arrive at the house to see a dozen or so people gathered around the front porch. The lights are out in the house, but the front door is wide open. As you start to climb the front steps, you hear moaning from inside. As you approach the door an old man comes out. He is holding a shotgun and looks dazed. Someone screams, "He killed her," and the man lowers the barrel of the gun toward the crowd. You order him to drop the weapon, but he just stands there.

- What level of force is appropriate under these circumstances?
- What force option should you use?
- What circumstances justify your decision?

Situation C

You are called to investigate a teen-age party. Neighbors report loud music and several fights. You arrive to find several hundred young people standing on the front lawn and spilling onto the street. There are a dozen other officers on the scene and the party-goers are booing and cursing at them. One girl, obviously drunk, swings her purse at you. You grab at it. Its contents, including a cellophane bag with what looks like crack cocaine inside, fall onto the sidewalk. A male standing next to her shoves you back and reaches into his coat pocket. He pulls out a black object.

- What level of force is appropriate under these circumstances?
- What force option should you use?
- What circumstances justify your decision?

In every situation they face, police officers must decide what level of force to use. Left: Police officers drag an uncooperative demonstrator away. Above: Police stand over a group of handcuffed looting suspects lying prone. (AP/Wide World Photos)

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taking action/

WHAT'S THE POLICY?

To help you further understand day-to-day police work and the policies that effect them, arrange a visit to your police department. As an alternative, you could invite several police officers and a lawyer who has knowledge of police procedures to visit your group. Many departments have community-relations or school-liaison officers who can help make the arrangements for classes or small groups.

Your visit's purpose should be to make a brief, but fairly comprehensive study of your local police. Listed below are some questions you might want to ask at the police station. Add any additional questions you feel are necessary to complete your study.

- What is the population and racial composition of the area served by your police department?
- How many officers work for the department?
- How many officers are on patrol during each shift? Are they evenly distributed? If not, why not?
- Does the ethnic composition of the department mirror that of the service area?
- Does the department have special educational programs in the schools or community?
- How much special training do members of the department have in community relations and what does it consist of?
- Does the department welcome visitors, maintain a ride-along program for adults or teenagers, or otherwise educate citizens about the police?
- What are the most common problems that officers must handle?
- What police calls tend to be the most dangerous?
- What is the procedure for filing a citizen complaint about a police officer's conduct?
- What is the department's policy about the use of force?
- Does the department have any special policies for supervising areas where youth hang out (e.g. arcades, shopping centers, etc.)?
- To improve police-community relations, I would suggest:

On completion of the visit write up your findings, share them with the group and discuss the following questions:

1. How do police perceptions compare to those of community members?

2. What did you learn about use of force? Do you agree with the policies? Why or why not?

3. What did you learn about police work and the police?

4. What suggestions did the police have for improving police community relations? How did these compare to those suggestions of community members?

before the TRIAL

The trial of the officers in the Rodney King beating case was delayed and complicated by a series of pretrial events and issues. Preparations also took place during a highly charged political debate about police-community relations and the chief's leadership. Both the prosecution and defense were forced to prepare for trial with these factors in mind. So was the trial court.

Los Angeles County Superior Court Judge Bernard Kamins, originally assigned to the case, did not want to let these factors interfere with a fair and speedy trial. He pressed for an early trial date against strong defense claims for long delays to prepare the case. As is typical in criminal trials, he also ruled against defense motions to have the officers tried separately. He also denied the defense's attempt to allow police officers in the jury pool. Out of 46 pretrial motions, 44 were denied. Finally, the defense made a motion for a change of venue.

Change of Venue

A change of venue motion is a request that a case be moved to another place. For a change of venue, the defense must show that the defendant cannot receive a fair and impartial trial in the county where the crime took place because of strong local prejudice. In general, state law and court rules describe when a change of venue should be granted. In California, the trial judge is given a lot of leeway in deciding the matter. Only if a judge shows gross abuse of discretion will the state appeals court overturn the decision.

The burden to get a change of venue is on the defense. It must prove that there is widespread prejudice against the accused. It does this by filing affidavits—sworn statements—that prejudice exists. It can also give examples of news articles, press coverage or statements of public officials which show prejudice against the defendants. Also, the Supreme Court of California has recognized that the political situation in the county where the trial is to take place can require a change of venue. As the court held in the case of *Maine v. Superior Court* (1968), "Political factors have no place in a criminal proceeding, and when they are likely to appear...they constitute independent reason for a venue change."

Defendants also have a right to an impartial jury under the due process clause of the U.S. Constitution. Defendants who lose a change of venue appeal to a state court can appeal to the federal courts.

Motions for a change of venue based on pretrial publicity alone are rarely granted, even in highly publicized trials. Courts realize that media coverage often crosses county lines and can even affect an entire state. For example, in Los Angeles neither mass murderer Charles Manson nor Robert Kennedy assassin Sirhan Sirhan was granted a change of venue. Most courts hold that careful jury selection can assure that impartial jurors will hear the case, in spite of publicity. To further protect the trial process, courts can also order defense and prosecution lawyers not to make statements to the press about the case.

In the trial of the four officers, the defense argued that the widespread broadcast of the Holliday video and other publicity made finding impartial jurors in Los Angeles County impossible. Judge Kamins rejected the defense motion.

The defense appealed the ruling to the California Court of Appeal. During the appeal process, Judge Kamins was accused of directly

contacting the prosecutor's office about the venue issue. To assure fairness, judges are not allowed to talk to one side unless the other side is present. Kamins also was accused of trying to discuss the matter with appellate court justices. Kamins denied any serious breach of rules. He did call the prosecutor, but claimed that in the call he did not discuss the issues of the case. His only message to the appeals court, he claimed, was to agree to a venue change. Nevertheless, the defense asked that he be removed from the case. After two months, Kamins was removed. The court appointed Judge Stanley Weisberg to take over.

The California Court of Appeal also overruled Judge Kamins on his decision not to grant a change of venue. The court did not base its decision on the pretrial publicity about the case. Instead, the court reasoned that ongoing political battles in Los Angeles County and statements of public officials made a fair trial there impossible.

The new judge had a choice of three counties to hold the trial—Ventura, Riverside and Alameda. These were based on a list provided by the California Judicial Council which selects potential sites on the basis of available courtrooms, appropriate facilities for major trials, and the economic capacity of a county to host the trial. The prosecution argued that Alameda County in Northern California would be best. It believed that the makeup of the population and urban setting were more like Los Angeles. Jurors from Alameda, the prosecutors argued, would be better able to relate to the case. The defense favored Ventura County, which neighbors Los Angeles and has a largely suburban and more conservative population.

Judge Weisberg chose Simi Valley in Ventura County. This suburban community is only 35 miles from downtown Los Angeles. The judge reasoned that traveling the 400 miles to Alameda would put too great a burden on witnesses. It would also make conducting the trial very expensive. According to the law, Weisberg decided, these considerations required him to choose Ventura County.

Judge Weisberg's decision raised considerable controversy. Critics pointed to the conservative demographics of the county and the large number of police officers and their families who lived in Simi Valley. They argued that these factors would make getting a conviction much more difficult. The law, however, seemed to support the judge's decision. Even the prosecutor, Terry White, acknowledged that existing case law in change of venue cases gave no weight to demographics as a factor in selecting a trial site.

The trial was moved and pretrial motions began on February 3, 1992, nearly 11 months after Rodney King's beating. In pretrial hearings, the prosecution won an early victory. It convinced Judge Weisberg that Rodney King's criminal record should not be admitted into evidence. Meanwhile, the selection of the jury began.

For Discussion

1. What is a motion for a change of venue? What is its purpose?
2. What reasons did the California Court of Appeal give for granting a change of venue? Do you agree with the court's reasoning? Why or why not?
3. Why was Judge Kamins removed from the case? Do you think his removal was justified? Why or why not?
4. Why did Judge Weisberg choose Simi Valley as the place for trial?

Policy Question/Change of Venue: After the verdict in the trial, Senate Bill 1335 was proposed in the California state legislature. It would require that if a change of venue is granted, the county to which the trial is transferred must have a similar ethnic makeup and demographics as the county where the crime occurred.

Supporters of the bill believe that this measure will help assure a jury which is more sensitive to the conditions where the crime took place.

Critics point out that the measure might end up hurting minority defendants. For example, if the crime occurred in a predominately white county, a minority defendant would have to face trial in a similar county.

a c t i v i t y

a change of VENUE

Imagine that you are a member of an appeals court asked to make a decision about a change of venue in the following actual cases. In each, the defense made a motion to move the trial. In each, the trial court denied the motion.

Working as a panel of three judges, one judge will **summarize the facts** of the case and deliver the decision of the case, one judge will **write a brief opinion** giving the decision and the reasons for it, and one will **write answers** to the questions that follow. Each judge has one vote. Majority wins.

In coming to a decision, answer the following questions for each case:

1. What factors might prejudice the trial in the current venue?

2. Would these factors make finding impartial jurors or assuring a fair trial impossible? Why or why not?

3. Should a change of venue have been granted? Why or why not?

Case A—Wounded Knee: In 1973, members of the American Indian Movement (AIM) took over Wounded Knee, South Dakota to bring attention to their cause. They demanded free elections of tribal leaders, an investigation of the Bureau of Indian Affairs and a review of U.S.-Indian treaties. During the two-and-a-half-month occupation, an FBI agent was robbed and assaulted. Several AIM members were charged with the offense. At trial, their lawyers asked for a change of venue. They argued that a lot of prejudice had always existed against Native Americans and publicity about the takeover had created in the community an even deeper-felt prejudice against the defendants.

Case B—Civil Rights: In 1963, a black minister, Alexander Mason, led the first sit-in demonstration against "white-only" restaurants in Falls County, Texas. One of the other protesters was a young black person. Soon after, Mason was arrested and charged with contributing to the delinquency of the minor. At the jail, Mason resisted and was accused of assaulting a police officer. Mason's lawyers argued for a pretrial hearing to demonstrate that racial feelings in the county ran strongly against the defendant. The judge refused to hold a hearing and instead asked the jurors in the case whether they were prejudiced against blacks. As a group, the jurors said they were not prejudiced.

Debriefing Questions

1. How are these cases similar? How are they different?

2. How do these cases compare to the change of venue issues in the trial of the four officers?

Jury Selection

The process of jury selection can be time consuming and complex. Potential jurors drawn from voting lists, drivers' license records and other sources are ordered to appear at a particular courthouse. They must serve as jurors for a given period of time, often 10 days. This does not mean everyone summoned will actually go onto a jury. Potential jurors are assigned to a particular courtroom when a trial is about to begin. First, they are screened to determine if they can serve through the entire trial. In the trial of the officers in Simi Valley, nearly 500 people over two days went through this screening process. The 265 of the potential jurors who could serve were then given 40-page questionnaires to determine whether they qualified for service on the jury. The questions asked were designed to determine whether the jurors would be gen-

erally qualified to serve on the jury in terms of family background and associations, profession, connections to the case, or the existence of bias that might disqualify them.

In most criminal trials, a jury consists of 12 people and two or four alternates. The alternates join the jury if one or more of the actual jurors become sick or cannot continue for some reason during the trial.

The process of actually questioning the potential jury members from the jury pool is called voir dire. Voir dire means "to see" and "to speak" in French. During the process, the attorneys for both sides get to ask the potential jurors questions.

Any juror may be excused for "cause." This means the jurors may be excused if questioning shows they are likely to be biased. For example, if a juror is somehow involved in some part of the case or knows the defendant or if he or she had prior contact with one side or another, a panel member may be excused for cause.

Each side also has a certain number of what are called "peremptory challenges." In the Simi Valley trial, each side had 30. These challenges allow either side to excuse a juror for any reason. For example, a defense attorney may want to excuse a person who was a victim or a family member of a victim of a crime similar to the one being charged. A prosecutor may want to excuse someone who had been charged with a similar crime. The reason is the same. Both sides want jurors who can see the case their way. In the trial of the officers the defense used 10 peremptory challenges and the prosecution used 18.

Troubling to many in the jury selection for the Rodney King beating case was the population mix of Simi Valley as compared to Los Angeles. Largely white, the area is only 2 percent black. Los Angeles has an African-American population of approximately 14 percent. The suburb-community also has a strong representation of police officers from Los Angeles and other surrounding areas who make their homes there. Many people in the community are friends or family members of law enforcement personnel.

While there were black jurors in the pool, none ended up on the jury. The defense had some excused for cause because on their questionnaires or in questioning they showed bias or were found not to be impartial. Also, some of the blacks in the pool had been contacted about the case by a representative of a Ventura civil rights organization. This made defense challenges to them easier. All of them were excused.

After nearly a month, a jury of 12 was selected. Some 285 jurors had been rejected. The final jury consisted of six men and six women. While no black jurors were placed on the jury, one Asian American and one Hispanic served.

For Discussion

1. What is voir dire? What is a challenge for cause? What is a peremptory challenge?
2. Are change of venue and voir dire fair and necessary procedures? Why or why not?
3. Were these procedures applied fairly in the case against the four officers case? Why or why not?
4. Since the jury was chosen in the case against the four officers, the U.S. Supreme Court has ruled that the defense cannot make peremptory challenges based on race. This rule was previously applied only to prosecutors. Do you agree with the court's decision? Why or why not? If this rule had been in effect at the time of trial of the four officers, would it have made a difference? Why or why not?

Policy Question/Affirmative Action on Juries: To assure more diverse juries and protect against racial discrimination, some have proposed that lawyers for minority interests in a criminal trial be given the right to seat jurors whose culture and experiences are similar to the minority in question. Similar to affirmative action, the proposal would require jury members to roughly reflect the population of the county where the case arose.

Supporters of the proposal claim that it is the only way to assure that minority viewpoints are represented on juries and that the results of a trial will be accepted by all.

Critics of the proposal claim that such preferences amount to reverse discrimination and may require the seating of those who are not impartial, making a fair trial impossible.

activity

questions FOR THE JURY

Introduction: Imagine that you are participants in the trial of the four officers in the Rodney King case preparing for jury selection.

According to recent changes in California law, as a general rule, lawyers no longer conduct voir dire in criminal cases. Instead, lawyers for each side submit their questions to the judge who decides which questions will be asked. In addition, since jury selection in the Rodney King beating case, the Supreme Court has decided that the defense cannot make a peremptory challenge to a juror simply on the basis of race. [*Georgia v. McCullom*, 112 S.Ct. 2348 (1992).] This rule was previously applied to the prosecution. These rules will apply to this activity.

Directions:

1. Review the reading, "Jury Selection," paying close attention to the definitions of **for-cause** and **peremptory challenges**.

2. Working in groups, you will be assigned one of the following roles:

- Trial Judge: It is your job to study the juror profiles and think about what questions you would ask to determine whether a juror can be fair and impartial. You will then select the best two questions submitted from both the prosecution and defense to ask the jurors. You should select those questions which will best help you decide whether jurors can be fair and impartial.
- Prosecution Lawyer: It is your job to study the juror profiles and develop a question to ask each juror. Questions should be designed to help you determine whether the juror can be fair and impartial, whether there is anything in the juror's background which would cause bias toward the defense, or whether the jury will have an open mind toward the prosecution's case.
- Defense Lawyer: It is your job to study the juror profiles and develop a question to ask each juror. Questions should be designed to help you find out whether the juror can be fair and impartial, whether there is anything in the juror's background which would cause bias toward the prosecution, or whether the juror will have an open mind toward the defense case.

3. Use the following worksheet to complete your tasks. Lawyers fill in your questions in the appropriate spot for each juror.

4. When instructed, the judge will ask for the work sheets and select the questions for the jurors.

5. When instructed, the judge will be called to ask the jurors a question. Lawyers should take note of the jurors response and be prepared to make a for-cause or peremptory challenge if called on.

Juror Profiles and Worksheet

Juror A—John Williams—Mr. Williams is a white, out-of-work engineer. Fifty-two years old, he has lived in Simi Valley for 12 years and owns his own home. Recently divorced, he is active in community affairs. He is a member of a local church, the PTA at his daughter's high school, and is captain of his Neighborhood Crime Watch group. His teen-age son has recently completed a court-imposed drug rehab program.

Prosecutor's Question _____

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Defense's Question _____

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Juror B—La Tonya Harding—Ms. Harding, 36, is a nurse at a Los Angeles hospital. An African-American, she and her husband, a Los Angeles County paramedic, recently moved from Los Angeles and have lived in a Simi Valley condo for the last six months. She is active in an AIDS education program for the inner city.

Prosecutor's Question _____

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Defense's Question _____

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Juror C—Tina Lucania—Mrs. Lucania, of Italian heritage, is 27 and the mother of a 4 year old. A native of Brooklyn, New York, she has taken time off from her career as a graphic artist to be with her child. Her husband is a computer programmer and they own their own home. Her mother, a partially disabled victim of a drunk driving incident, lives with the family.

Prosecutor's Question _____

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Defense's Question _____

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Juror D—Michael Perez—Mr. Perez, a Latino, is a 42-year-old veteran, recently retired after 20 years with the Air Force. He serves as a community advisor for a member of Congress and has a real estate broker's license. He is also involved in youth recreation programs and counsels young people in a gang intervention program.

Prosecutor's Question _____

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Defense's Question _____

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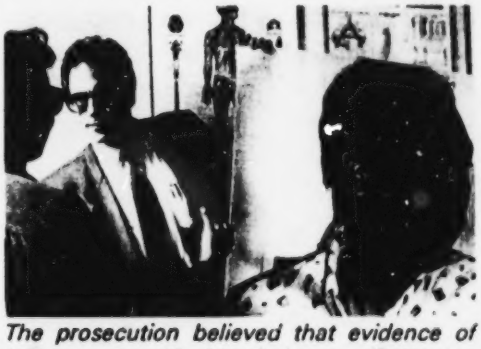
prosecution, defense and VERDICT

The prosecution strategy was fairly direct and straightforward. Drawing on the Holliday videotape, expert testimony, eyewitnesses and medical opinion, it chose to let the evidence speak for itself. That is, based on the nature of King's injuries, a broken cheekbone and leg, and head wounds, it argued that deadly force had been used without cause. The prosecution also had four witnesses, including CHP officer Melanie Singer, who testified that the police had delivered baton power strokes to the head.

The prosecution relied on a use-of-force expert from the LAPD itself. He was Michael Bostic who served on the department's inquiry board. Bostic did a frame-by-frame review of the videotape. He concluded that the officers exceeded necessary force less than halfway through the beating.



The prosecution believed that evidence of injuries was critical to their case. (Bettmann Archives)

The prosecution also used the officers' own words against them. For the prosecution, Sgt. Koon's computer message and Officer Powell's statements to King at the hospital showed that the officers knew that they had gone beyond reasonable force, and were gloating about it. Powell's earlier "Gorillas in the Mist" statement was used by the prosecution to argue that Powell was racially prejudiced and that therefore, the beating may have had a racial motive.

Most important, the prosecution had the stark, brutal images of the videotape itself. With it, they tried to persuade the jury that the beating went on long after King had stopped resisting. To demonstrate its case, the prosecution emphasized the latter part of the video. This is the part that most people saw on television. It showed King lying virtually helpless on the ground suffering blow after blow. This sequence, according to the prosecution, proved without a reasonable doubt that the police had unlawfully beaten King. Once King had stopped any level of resistance, argued the prosecution, the officers no longer could rely on the doctrine of reasonable force and should have stopped beating him.

One controversy haunted the prosecution's case. It decided not to call King as a witness. While it is unusual not to have the victim of a crime testify, especially in police brutality cases, the prosecution had sound reasons for not doing so. King had made several contradictory statements before trial. At one point he claimed he was not speeding, but evidence clearly showed he was. King originally stated that there had been no racial comments made during the incident, but later he claimed there had been. He said he had not been combative and never resisted the officers. Plenty of evidence showed that he had. Supporters of King later argued that his confusion about these facts may have resulted from the beating. Still, the prosecutor believed that the fact they were made could be used by the defense to hurt the prosecution's case.

Finally, there was the matter of King's criminal record and other violent behavior. This included his 1989 conviction for robbing a grocery store with a tire iron. If King had taken the stand, the defense on cross-examination would have been able to raise these matters with the jury. On March 17, the prosecution rested its case without calling King.

Now it was the defense's turn and it had problems of its own. Each officer had his own attorney. One of the officers, Theodore Briseno, even broke with other defendants. He claimed that he had tried to stop the beating, which he felt had gotten out of control. This put the defense in a difficult position. Now, instead of a united front, one of their own would support key elements of the prosecution case. It also created problems for the prosecution. Briseno, after all, was a defendant in the case. The prosecution had to steer a careful course to make sure that Briseno's testimony, while damaging the posi-

tion of the other defendants, would not hurt its case against him.

In spite of its problems, the defense had significant time to prepare. Its case, and the prosecution's counter-arguments, followed these lines.

Rodney King's Behavior and the Officers Perception: Much of the defense case focused on what occurred even before the videotaping began. According to the defense, Rodney King had been pulled over after a high-speed chase and exhibited a bizarre and hostile reaction. He seemed to be taunting the officers and refused to follow their orders. Given his actions, the officers had not been able to search him for weapons. His reaction to the Taser darts and the blows from the batons failed to subdue him or force him to comply with officers' orders. According to the defense, this led the police to reasonably believe that King was under the influence of PCP, a common street drug and one which can stimulate violent behavior in users and reduce their reaction to pain. Still dangerous, the defense argued, he was unaffected by the painful blows of the batons.

The defense also argued that the harsh treatment the officers gave King was based on his behavior alone and argued that his companions, Bryant Allen and Freddie Helms, were arrested without incident because they did not resist. Allen, a prosecution witness, did testify that he got out of the car on the officers orders, lay prone and was handcuffed, but during the process he felt a stomp or kick. After the verdict, Allen, who has a civil suit against the officers, expanded on his story. He claimed on national TV that he was dragged from the car, pushed down on the ground, and stomped and kicked. Unfortunately for the prosecution, Allen did not describe these matters at trial. He also hurt his own credibility with the jury claiming that during the car chase King obeyed all traffic laws and stayed within the speed limit.

The prosecution did not try to justify King's early behavior or condemn the officers' initial reaction to it. The prosecution did introduce evidence that King was not on drugs and argued that his behavior did not justify the officers conclusion or actions.

The Videotape: The defense then concentrated on the early part of the tape. It showed Rodney King rising and charging in the direction of Officer Powell. This took place just seconds after he had been struck with two Taser darts. The prosecution argued that this was evidence that the Taser had little effect on the suspect and King was aggressively attacking the officers. Everything else that happened, argued the defense, must be viewed with this in mind.

The prosecution argued that King was merely trying to get away, not attack Powell. It also argued that even if he did try to escape, this did not justify use of deadly force or the prolonged beating after King had stopped resisting.

Use of Deadly Force: The police, from the point of view of the defense, never intentionally used deadly force. According to defense medical experts, the broken cheek bone resulted from King's fall to the ground after he rushed Officer Powell, not from a blow to the head. Any head wounds, claimed the defense, were the result of misdirected or deflected blows and were not intended by the officers. The defense claimed that the initial baton blow Powell delivered to King's body was reasonable under the circumstances. In fact, argued the defense, no blows were delivered to King's head or other vital body areas.

Though CHP Officer Singer, Officer Briseno and others testified to head blows, there were a number of inconsistencies in what they described. For example, Singer said she saw one of Powell's blows hit King causing a gash on the side of the face. On cross-examination, when shown a picture of King taken shortly after the incident, she could not identify any such wound. Briseno claimed that Powell's original baton blow also hit King in the face, but the videotape seemed to show a body blow. Other witnesses said they didn't see any head blows. None could be clearly identified on the videotape. Finally, King's broken leg, according to the defense, resulted not from an intent to do great bodily injury. Instead, it resulted from a misplaced blow as the officers were trying to get King to submit.

Testifying for the defense on these matters was use-of-force expert, Charles Duke Jr. A 21-year veteran of LAPD, Duke also did a frame-by-frame analysis of the videotape. But unlike

Michael Bostic, who testified for the prosecution, he testified that the blows of the officers were a direct response to Rodney King's aggression or resistance.

The prosecution argued that Powell's initial baton blow was not justified, if it was directed at King's head. It also argued that some of the officer's flurry of blows after King fell were directed at the head and that in all cases the officers were not justified in using deadly force. In addition, it argued that the later blows could not be justified by King's earlier reactions. Its medical experts testified that the head wounds could not have been caused by the fall. They also testified that the fractures to King's face could not have been caused by the fall, unless he hit the pavement at an almost impossible angle.

Racial Motive for the Beating: Though the prosecution cross-examined several witnesses about a racial motive for the beating, this aspect never became a significant factor in the trial. Except for Powell's "Gorillas in the Mist" statement, which took place before King's arrest, the prosecution could not prove any examples of racial slurs. The prosecution subjected Powell to a gruelling cross-examination of his message. While Powell denied that his message was racially based, he seemed unable to offer any other reasonable explanation for its content. Yet at the scene of the beating, none of the witnesses testified that they heard any racial statements, including Bryant Allen. The prosecution had the audio portion of the videotape enhanced by the FBI. But the tests failed to identify any racial comments. Rodney King himself, in early interviews with the prosecution, said that no racial statements were made. Only later, when he filed a civil case against the officers, did King claim such statements. According to prosecutor Terry White, himself an African-American, the only provable racial factor in the case was that the four officers on trial were white, and Rodney King was black.

Reasonable Force Under the Circumstances: The defense concentrated on trying to convince the jury that the police had acted reasonably under the circumstances. It argued that given LAPD training and existing procedures, the officers escalated force in an appropriate way. They were faced with a hostile suspect who never submitted to lawful orders. The defense argued that the police first resorted to verbal orders, then to two non-lethal Taser darts, and finally to use of the baton. Mace was never used. According to Sgt. Koon, based on LAPD training, Mace was believed to be ineffective against suspects on PCP.

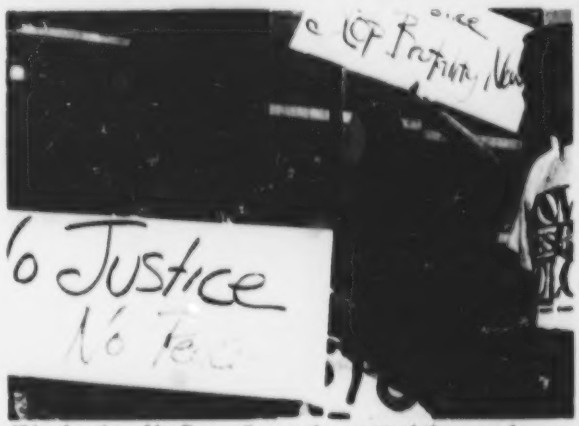
Even near the end of the incident as shown on the videotape, according to the defense, King still refused to get into the proper position for searching and handcuffing. The officers testified that until the very end, his facial expressions and hand movements indicated defiance and potential hostile action.

Countering prosecution experts who had insisted that the officers had five different opportunities to stop the beating and subdue King with overwhelming force, the defense argued that the officers were following standard police practices. For example, at one point the prosecution claimed that the officers should have stopped using their batons, and used a "swarm technique." This involves having numerous officers jump on the suspect and overwhelm him. Koon, in his report of the incident, had claimed that the officers had tried to swarm King, but that the suspect had thrown the officers off of him. Paradoxically, the defense also introduced evidence that this method was not yet in general use by the department. Sgt. Koon also testified that because of his focus on the suspect, he was not even aware that so many other officers were on the scene.

The prosecution countered each element of the defense case with strong cross-examination of defense witnesses and experts. Throughout, the prosecution tried to demonstrate that in spite of King's behavior and resistance early on, there was a point at which the police use of force went beyond reasonableness. Why didn't the police, asked the prosecution, stop using their batons when King was clearly helpless on the ground? Why didn't they just handcuff him, even if he did not follow orders to get into exactly the right position? To continue to use their batons under these circumstances, claimed the prosecution, made the police criminally responsible for their actions.

On April 23, after nearly 11 weeks of proceedings, the prosecution and defense completed their final arguments. The case then went to the jury.

It took seven days for the jury to reach a verdict. As they deliberated, media coverage seemed to fuel the perception that a guilty verdict was all but certain. For the jury, on the other hand, the process was anything but certain. While on the first vote, Officers Briseno and Wind were acquitted, the jury remained undecided on the charges against Powell and Koon. Officer Powell had delivered most of the blows in the beating and Sgt. Koon was the highest ranking officer on the scene.



"No Justice, No Peace" was the central theme of many outraged demonstrators during the three days of rioting. (Bettmann Archives)

On April 29, the city and nation watched as the final verdict was read. It shocked many. Officers Wind, Briseno and Sgt. Koon were judged not guilty of all charges. Acquitted of use of deadly force and filing a false report, the jury couldn't come to a unanimous decision on the unlawful beating charge against Officer Powell. The jury split eight to four on this charge, with eight of the jurors voting for acquittal. Since a unanimous verdict is required for conviction or acquittal, the judge declared a mistrial. With the mistrial of Powell, the prosecution was free to make a motion for another trial. It did so two weeks later and Judge Weisberg granted the motion.

Within hours of the verdict, local and national leaders denounced it, some claiming that it must have been racially motivated. Almost immediately, the jurors began to receive death threats. Many protesters gathered in front of Parker Center, the downtown police headquarters. Chanting "No justice, no peace," the crowd grew unruly. After burning trash cans, a small structure and police cars, the mob moved through the downtown area smashing windows and setting fires.

Meanwhile, in South Central Los Angeles, other disturbances were reported. Soon large sections of the city were in flames. The police, lacking effective leadership and overwhelmed by the scope of the law-breaking, failed to contain the violence. Fire and emergency units could not respond to all the calls and sometimes were fired upon or threatened when they did. Three days of rioting and looting followed. Damage was especially serious in the Korean section of the city and the inner city areas of Pico-Union and South Central, but even areas of the more affluent Westside were affected. Before police, federal troops and the national guard could restore order, some 50 people had died and over 1,000 buildings had burned.

Did the verdict in the trial of the four officers alone cause the riots? It seems doubtful. Years of frustration and deeper social, economic and political problems seemed to contribute to the explosion of lawless behavior and rage. Indeed, many of the rioters seemed to have little knowledge of the verdict or the issues it raised. Many merely saw an opportunity and joined the looting. Once started, the months of political squabbling and a lack of planning and resources hampered the government's ability to contain the disturbances. The verdict was merely the match that set it all off.

For Discussion

1. Why did the prosecution not call Rodney King to the stand? Do you agree with this decision? Why or why not?

2. What part of the videotape did the prosecution emphasize? Why?

3. What part of the videotape did the defense emphasize? Why?

4. While the media often raised the question, why did the issue of a racial motive for the beating never become a major factor at the trial?

5. Based on the case for the prosecution and defense, do you think the officers were guilty beyond a reasonable doubt? Why or why not?

a matter of OPINION

As the riot fires cooled and the smoke cleared, the analysis of the verdict heated up. In Los Angeles and around the country, almost everyone had something to say.

An anonymous juror on the case called a television show. Appalled by the riot violence, she defended the jury's verdict claiming that it was not based on racism. Instead, echoing the defense's closing argument, she claimed that Rodney King had been in control of the beating situation the entire time. All he had to do was follow lawful orders to assume the prone position on the ground and the police would have stopped, she claimed. While she thought the prosecution did what it could, she concluded, "They just didn't have a strong enough case."

Terry White, the prosecutor of the case, called the juror's explanation, "Not reasonable," and argued that "the videotape was a very powerful piece of evidence." "It seems like it's just been discounted," he concluded.

The reactions to the verdict of the four officers ranged from outrage and disbelief to agreement. (Bettmann Archives)

Lawyers, professors, activists, politicians and others also had opinions. Most argued that the verdict had been a mistake and tried to explain why it happened. For example:

Describing the verdict, a "miscarriage of justice," Roy Innes, chairman of the Congress of Racial Equality, called for a peaceful protest against the way the trial had been conducted.

Peter Arenella, a UCLA law professor, blamed both the jurors' unconscious racism and the prosecutor for the outcome of the case. He faulted the prosecutor on his closing argument, especially for relying too heavily on the videotape. He argued that "racial stereotypes and a lack of understanding of how the police sometimes deal with members of minority groups might have tainted their deliberations." Would the jury have ruled in the same way, he asked, if a large white man resisted lawful arrest in the same bizarre manner?

Editors, too, across the political spectrum, condemned the verdict and the jurors who delivered it. *U.S. News and World Report* in its May 11, 1992 "Outlook" section stated, "The jurors who delivered the Rodney King verdict heard that he grunted like a bull while being beaten, that he had Hulk-like strength. Apparently, they didn't believe he was also a human being, despite his failings. In the end they decided, he was just a bad black." *Newsweek* in its May 11, 1992 special report on the verdict and the riots, criticized the presidential candidates for their lack of leadership around the issues and concluded that they were, "Caught, like most of America, between revulsion at the King verdict and disgust at the violence it engendered..."

The verdict in the case was largely condemned. For many, it represented racism that they believed led to the riots and characterized the criminal justice system. While the prosecution, the defense and the jurors all stated that race did not play a major part in the case, the media and the public seemed to form the opposite opinion.

There were dissenters. Charles Murray of the American Enterprise Institute didn't think that "the jurors' reaction had as much to do with race as fear of violent crime." He concluded that the white jurors were responding to the reality of high rates of crime among young black males. He also argued that blacks have to come to terms with that reaction.

Interviews with the actual jurors support an even different conclusion. D.M. Osborne talked extensively with seven of the Simi Valley jurors and two alternates for an article published in *The American Lawyer*. Based on his observations of the trial, and their reports of what happened in the jury room, he concluded that the vast majority of the jurors were united in their respect for the police. As a result, they held the prosecutor to a very heavy burden of proof and tended to resolve any doubts about the evidence in favor of the defense. For example, they discounted eyewitness accounts of baton blows to Rodney King's head because none could be clearly seen on the videotape. On the other hand, the majority was willing to accept police interpretations of King's movements near the end of the beating even when they were barely visible on the tape. The majority also discounted Officer Briseno's version of the events as simply not believable. Some referred to him as the "choirboy." Of the two major use of force experts, the majority seemed very impressed with the defense expert, Charles Duke Jr., but not with the prosecution witness, Michael Bostic. One called Bostic "the biggest phony in the whole trial."

Still, the jury deliberations were anything but superficial. The jurors spent many hours analyzing the videotape and arguing over the meaning of the evidence. At times, the discussions became extremely tense and angry, especially concerning the charges against Officer Powell. The jurors summed up their feelings with a statement signed by all which they handed to the judge. It read: "This experience has been an extremely difficult and stressful one, one which we have agonized over a great deal. We feel we have done the very best job we possibly could have done."

Some criticized the print and electronic news media for coverage of the trial and verdict. For example, Roger Parloff, also writing for *The American Lawyer*, pointed out that many public figures and the mainline news establishment condemned the verdict on the basis of what was seen on the 81-second Holliday videotape alone. Giving examples, he also claimed that journalists seriously misled the public about the basic facts of the case and the legal issues at trial.

Others focused their criticism of the media mainly on television, pointing out that the nightly news repeatedly ran only parts of the videotape highlighting the beating. Little detail was given about what led up to the police action or what happened before the taping began. Few stations even ran the entire tape or bothered to analyze it. Fewer still helped people understand the case as a whole. Yet snippets or stills from the tape ran for months every time the case was mentioned. Because of this, some argued, the public was led to expect an open-and-shut case. When the jury reached a different conclusion, the public reacted with disbelief and anger.

For some, the Rodney King beating case and verdict served as the perfect example of how blacks and other minority groups have been treated by the American criminal justice system. For others, the incident represented a tragic departure from the progress toward racial equality that has been made over the last 40 years. For others still, the case and verdict proved that the criminal justice system worked. For them it demonstrated the harsh reality of law enforcement in urban America and that, even under difficult circumstances, the due process rights of criminal defendants can be protected.

For Discussion

1. Based on your understanding of the case, do you think the verdict was a miscarriage of justice? Why or why not?

2. Do you think race played a significant role in the verdict? Why or why not?

3. Do you think the media did a good job in reporting on the case and the verdict? Why or why not? Were there any differences in coverage between the print media and television coverage? What might account for these differences?

4. Reacting to the riots that followed the verdict, Rodney King stated, "...It's just not right. It's not right and it's not going to change anything." Do you agree with his statement? Why or why not?

a c t i v i t y

the editor's DECISION

Introduction: A free and aggressive press is essential in a democratic system such as ours. For a democracy to survive, the press must inform citizens about public issues that affect them. The press often covers famous criminal cases and matters of law. In fact, most people get their understanding of the justice system from both the entertainment and news media. For these reasons, it is important that the information people get is accurate and gives a true picture of the system, its methods, and the issues it must confront. Does television do a good job in covering these matters?

Directions: Imagine that you are part of an editorial team at a television news department. During the activity, it will be your job to review a late-breaking story about a criminal matter, and make decisions about how it should be covered. You will report these decisions to the class. To complete the activity, follow these steps:

Step 1. You will be assigned one of the following roles. When it is assigned, study the role and try to imagine how a person in that position might think.

1. News Editor: It is your job to lead the team's discussions and make the final decision about the story. Your major concern is to see that the coverage is fair and objective, the story is newsworthy, and that the way the story is covered does not interfere with the criminal case in progress. In addition, you have only a couple of minutes on air to cover the story.

2. Managing Editor: It is your job to make sure that the TV station runs well and is profitable. Advertisers demand high rates of viewership. You must compete with other stations for both viewers and advertisers. Your major concern is that your station has the most exciting news program. When a big story breaks, you want maximum coverage.

3. Reporter: It is your job to aggressively cover the story and uncover angles that other reporters miss. You believe that the public has the right to know almost everything you can find out. Your major concern is to present a story that will interest the audience. You believe that the audience is interested in human drama, especially if it involves famous people or public figures.

4. Legal Advisor: You are paid by the station to give its editorial team legal background on big criminal cases so they can do a better job covering the story. You are also called on to appear on the station's news shows to explain complex legal matters in a way the public can understand. Your major concern is to give this background in a way that is interesting and will not bog the story down. You also want to make sure that the way the story is covered does not overly interfere with the prosecution or defense of the case, or subject the station to claims for libel or slander.

Step 2. As a team, read the following description of a breaking news story:

Yesterday, September 22, one of your reporters learned that the district attorney had filed rape charges against Bruce Murphy, a law student and the 25-year-old son of State Senator Curtis Murphy. The alleged victim, a 21-year-old woman, claims that she had met Murphy, whom she knew slightly, at the bar of a local country club. After a few drinks, she had agreed to go on a walk with him. A half hour later, they were watching the moon and talking out on the golf course. According to the alleged victim, he made advances. She refused and resisted, but he threw her to the ground and raped her anyway. She ran away and stopped a police car that was patrolling nearby. The police investigated. Though there was evidence of sexual relations, the young woman refused to testify until yesterday. Murphy himself refused to talk to reporters, but a spokesperson for the family stated that "Bruce did nothing wrong. The whole story will come out at trial."

Today, a man named Harold Nellis comes into the station and tells the following story to the reporter:

"Congress shall make no law... abridging the freedom of speech, or of the press..."

On September 15 at about 8:30 p.m., Nellis was crossing the darkened parking lot of the Eagle Nest Golf and Country Club. As an avid golfer, he had spent the afternoon on the course taking pictures with his video camera of his golf partners swinging at the ball. Returning from dinner at the clubhouse, he still carried his clubs and the camera. Suddenly, he saw three police cars pulled up near where the 14th green met the parking lot. Moving closer, he saw several officers and two young people. He recognized one as Bruce Murphy, whose father belonged to the club. Murphy stood with his back to one of the cars. He was yelling obscenities, shoving and taking swings at two of the officers. Nellis also recognized the young woman. She was Bridgett Maheu, the 21-year-old daughter of the club manager whom he had known for many years. She sat crying, wrapped in a blanket in the back seat of one of the patrol cars.

Nellis, unseen, ducked behind a tree about 50 feet from the scene. He loaded a new videotape and nervously started shooting. The tape captured only three minutes of the event.

At the beginning the tape shows one of the police officers brutally jabbing Murphy numerous times in the stomach. Murphy doubles up in pain and falls to the ground. The police push him flat with their feet and handcuff him. The camera pans to Bridgett Maheu who has stood up and is screaming at the officers. The audio on the tape captures her words, "He didn't do anything. Don't hurt him." The next portion of the tape shows the police putting Maheu and Murphy in separate cars and driving off.

On returning home Nellis watched the tape and checked the evening news to see if there was any coverage of the event. There was none. Not wanting to cause any trouble, he did nothing with the tape for nearly a week. Then when the story broke, he brought it to the station. He was willing to let the station air the tape for a fee of $500. He had two conditions: his name cannot be used as the source of the tape, and he will retain any movie or rebroadcast rights. If the station did not want the tape under those terms, he would take it to another station.

Step 3. As a team, discuss and answer the following questions. The News Editor is responsible for leading the discussion and making the final decision. The Reporter is responsible for recording the answers in writing. The Legal Advisor is responsible for checking the answers. The Managing Editor is responsible for reporting to the class.

1. Is the story newsworthy? Would it be newsworthy if Bruce Murphy was not the son of a state senator? Why or why not?

2. Should the station pay money for the videotape? Why or why not? What might happen if the station begins the process of buying its news?

3. Should the station broadcast the videotape? If so, how? What effect might this decision have on the criminal case against Bruce Murphy?

4. Should the station show the portion of the tape that reveals the identity of the victim Bridgett Maheu? Why or why not?

5. Should the station air the audio part of the tape that contains Bridgett Maheu's actual statements? Why or why not?

6. Should the station broadcast the part of the video that shows the police jabbing Bruce Murphy? Why or why not?

7. Should the station agree to protect the identity of the source of the videotape? Why or why not? As a witness to the event, what additional evidence could Harold Nellis provide? What if the court orders the station to reveal the source?

Debriefing Questions

1. How did it feel to have to make decisions about these questions?

2. Would your answers to these questions change if you knew the race of Bruce Murphy or Bridgett Maheu? Why or why not?

3. Would your answers to any of these questions change if you knew that one of the officers on the scene was the chief of police of the town and that he was a personal friend of the state senator? Why or why not?

4. Should the press ever withhold information? Is the public's right to know more important than assuring a fair trial for a criminal defendant? Why or why not?

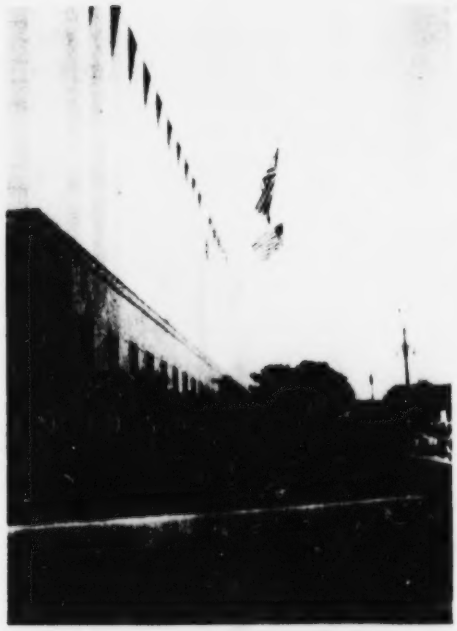
the federal
PROSECUTION

The verdict in the case of the four officers did not mean vindication for them. Laurence Powell still faced retrial in Superior Court on one criminal charge. Three of the officers, Koon, Powell and Briseno, stayed on suspension without pay from the LAPD. They still had to go through disciplinary hearings with the department. Officer Wind, who was on hiring probation with the department, already had been fired. The officers were also named defendants in a multi-million dollar civil suit for damages filed by attorneys for Rodney King and later, by attorneys for Bryant Allen.

Even more seriously, the four officers faced federal criminal charges. On August 5, 1992, a federal grand jury in Los Angeles issued a four-page, two-count indictment of the officers called *United States v. Koon*. In Count I, it charged officers Powell, Wind and Briseno with violating the Fourth Amendment of the U.S. Constitution under Section 242, Title 18 of the U.S. Code. Specifically, it charged that the officers:

> "...while acting under the color of the laws of the state of California, aiding and abetting each other, did willfully strike with batons, kick, and stomp Rodney Glen King...resulting in bodily injury to [him], and thereby did willfully deprive Rodney Glen King of the right preserved and protected by the Constitution of the United States not to be deprived of liberty without due process of law, including the right to be secure in his person and free from the intentional use of unreasonable force by one making an arrest under the color of law."

While the language of the indictment is complex, it boils down to this: Acting under the "color of laws" means that the defendants, as police officers, were asserting the authority under California law to arrest Rodney King. In doing so, their actions in beating him violated his rights as a citizen. His rights are protected by the Fourth Amendment of the U.S. Constitution. By violating those rights, the indictment charged, the police also violated federal criminal law.



Sgt. Koon was not charged in Count I. Instead, he was charged with violating a different part of Section 242 of the U.S. Code. This section requires that suspects not be deprived of constitutional rights while in custody of the police. The indictment charges that Koon allowed the officers under his command to beat King and failed to prevent the unlawful assault. If convicted, Koon, too, would be guilty of depriving King of his protected constitutional rights.

These are serious felony charges. Each officer could be punished by a maximum of a 10-year prison term and a fine of $250,000.

Assigned to the case was U.S. District Judge John G. Davies. The court set a trial date in February 1993. Almost at once new controversies arose.

At a public meeting, one defense lawyer charged that the federal indictment was politically motivated. Paul DePasquale, the attorney for Officer Wind, also claimed that after the riots his client could not get a fair trial. He also argued that the indictment smacked of double jeopardy. After all, he reasoned, the state prosecution presented all of the evidence and all of the arguments, and the matter should have been settled with the verdict. He also pointed out that

in the federal case the officers were simply being tried again for exactly the same conduct.

Others disagreed. Hugh Manes, a lawyer who specializes in police abuse cases, claimed in the same public forum that the federal jury and prosecutors were just "trying to correct an injustice." "When a state is unable to do justice in a case involving a civil rights violation," he argued, "the federal [government] has the duty to protect those civil rights by initiating a prosecution."

Pretrial hearings began on November 12, 1992. Once they began, the state charges against Officer Powell were dismissed, the judge ruling that in substance they would be retried in the federal prosecution. Yet the defense did not have much time to celebrate. Federal Judge Davies quickly settled the issue of double jeopardy. While the Fifth Amendment of the U.S. Constitution prevents a defendant from being tried more than once for the same crime, there is a major exception. It is called the "separate sovereigns" exception. Under this rule, a state government and the federal government are separate sovereigns. Each has the right to define criminal conduct. The U.S. Supreme Court has ruled that double jeopardy only protects a defendant from being tried twice by the same government. The defense argued that this exception was out of date and should not apply. The judge disagreed and held that the federal criminal case would continue.

The defense and prosecution battled over what burden the prosecution would have in proving its case. The judge initially stated that the prosecution would have "a high and a heavy burden" in proving its case against the four officers. The prosecution had argued that to win a conviction, it needed only to prove that the officers intended to use excessive force on King. Also the prosecution had to prove that the force they used was unnecessary.

The defense argued that the prosecution had a higher burden. It claimed that the prosecution had to prove that the officers not only used excessive force, but that they actually intended to deprive King of his civil rights by showing that the beating was racially motivated. By the judge's statements and questions during the hearing, he seemed to agree with the defense. Later, Judge Davies reversed his position and ordered, "The government at trial will not be required to prove racial motivation as an element of the offenses charged."

Some of the judge's rulings during the pretrial phase benefited the defense. The judge sided with the defense by not allowing Powell's "Gorillas in the Mist" statement to be used at trial. He also refused to let the prosecution introduce evidence that any of the officers had earlier used excessive force in the field. The judge ruled that earlier acts of excessive force did not show that the officers had the intent to use such force against King on the night in question. He also ruled that Powell's computer message was not relevant and would prejudice the jury.

On another matter the judge ruled that the identities of the jurors and their responses to the 53-page questionnaire would be kept secret. Sample questions included:

- What was your personal reaction to the verdicts in the state court trial?
- Do you believe police officers make mistakes in the performance of their duties?
- Have you ever been afraid of someone of another race?

Though unusual, the judge believed that these measures would help protect the jurors' safety. He also wanted to make sure that neither the news media nor the public could influence them.

As the pretrial hearings continued, controversy haunted the case. In November 1992 someone leaked a secret prosecution memo to one of the defense lawyers. The memo outlined the prosecution case and described its weaknesses. Leaders in the African-American community condemned the leak and likened the trial to a "circus." Others feared that the leak could damage the prosecution case. Legal experts, including the prosecution, believed that the memo would not have much impact. Most of the information, especially the concerns over the prosecution witnesses, was well known.

As trial preparations continued, it became clear that the prosecution strategy in the federal case would be quite different from that of the state prosecutors. To win a conviction, the federal prosecutors would have to prove two key elements: 1) That the officers violated King's

constitutional rights by using excessive force, and 2) that they did so "willfully." In the first trial, the state prosecutors did not have to prove the intent of the officers.

Under federal case law, "willfully" does not mean that the officers had to be thinking about their actions in terms of violating King's constitutional rights. Instead, according to a 1986 9th Circuit Court of Appeals case, the prosecution need only show that they acted in "reckless disregard for a person's constitutional rights."

The prosecution revealed a fairly straightforward strategy for presenting its case. Its theory seemed to be that during the beating, the officers meant to hurt King as punishment for leading them on a chase and not following orders. While the officers had the right to use force to arrest King, they did not have the right to brutalize or "punish" him with the beating. If the police were administering "street justice," the force used was excessive and violated the suspect's constitutional rights.

In addition, the prosecutors put together new teams of experts to review the evidence. Their team of military medical experts concluded that at least some of King's head and facial wounds were caused by the police batons. Their use of force experts would argue that the police were not authorized under existing policies to use their batons in the manner they did. The prosecutors also uncovered new evidence that King's trip to the hospital had been delayed for some time. Instead, he had been first taken to the Foothill Division police station and kept in a police car in the parking lot. During this period, other officers had come by the car to view him.

The defense strategy as revealed seemed consistent with the one offered at the state trial. For the defense, the case still focused on the behavior of Rodney King, the officers' alleged fear of him, and the issues of drugs and alcohol. In the federal case, the defense also showed a more united front. Officer Briseno changed his opinion that the other officers used excessive force, claiming that viewing the videotape and the evidence in the first trial forced him to change his mind about their conduct. His attorney tried to keep his prior views out of trial arguing that most of his statements were merely "opinion testimony" which Briseno was not qualified to give.

In addition, in this trial Rodney King himself would testify. He admitted he was drunk and tried to run from the police to avoid going back to prison for violating parole. He also admitted that he had lied about these matters to the grand jury. However, he claimed that he did not resist police efforts to arrest him and that he was only trying to runaway when he lunged at the officers. He also claimed that his movements during the

beating were merely defensive. "I was just trying to stay alive, sir," he said, "and they never gave me a chance to say still." He also said, but couldn't be sure, that the officers used racial slurs during the beating.

The state and federal prosecutions of the four officers demonstrate the thorny issues raised when the police are on trial for abusing citizens' rights. The outcome of the federal case against the officers will not end the controversies about the way the law and the justice system handle these matters. For example, in 1992, there were three separate trials of 11 police officers for use of excessive force in the federal district covering Southern California. Of the officers tried, only one was convicted. The fact remains that the people who serve on juries in trials involving the police will often find a reasonable doubt. Whether justice is served remains an open question.

For Discussion

1. What federal charges did the four officers face?

2. Do you think these charges were more difficult to prove than the state charges? Why or why not?

3. How did the prosecution theory in the federal trial differ from that of the state prosecution? What evidence might support that theory?

4. Given the aftermath of the first trial, do you think that it is possible for the officers to receive a fair trial on the federal charges? Why or why not?

5. What reaction is appropriate if the officers get a not-guilty verdict in the federal case? What reaction is appropriate if the officers are convicted?

Policy Question/Double Jeopardy: In spite of current law on the issue of double jeopardy, some argue that it is unfair to criminal defendants to face federal prosecution after acquittal in a state court. Some propose that a policy be adopted to get rid of the "separate sovereigns" exception. This would bar federal prosecutions if a state court has tried the accused for the same conduct.

Supporters of the policy claim that the current law violates the spirit, if not the current Supreme Court interpretation, of the Fifth Amendment. They claim that the current policy was designed to correct "Jim Crow" courts and that those conditions no longer exist. ("Jim Crow" refers to laws and procedures used in certain areas of the South which were designed to legalize segregation and intimidate blacks.)

Critics of the proposed policy argue that the federal government must continue to have the power to prosecute on the basis of federal law. If this power is lost, local conditions whether motivated by racial bias or strong local feeling could allow guilty defendants to go free and victims of crimes left without protection.

the trial of the
DENNY DEFENDANTS

On April 29, 1992, a white truck driver named Reginald Denny was driving his big-rig gravel hauler through South Central Los Angeles. Unknown to him, he arrived at a dangerous intersection just in the opening minutes of the Los Angeles riots. From above, a news helicopter was capturing the scene of the growing disturbances on videotape.

What followed shocked television viewers all over Los Angeles and throughout the country. As shown on the video clip, after stopping Denny's truck, several young African-American males pulled the driver from the cab and started brutally beating him. He was punched, kicked and struck with debris. One assailant threw a chunk of concrete at his head. Bleeding and helpless, Denny first fell to his knees and then lay flat on the ground. Several of the young men danced around, taunting him. Finally, four private citizens, also African-Americans, braved the mob and rescued him. Taken to the hospital, Denny was treated for a fractured skull. For several days he hovered near death, but eventually recovered.

For three days following the verdict, lawlessness erupted in Los Angeles. (Bettmann Archives)

Later, based on an analysis of footage of the videotape, police identified several young suspects, all African-American men. Three of the suspects were charged with attempted murder, torture, robbery and gang association, among other crimes. The defendants were Damian Williams, Henry Keith Watson and Antoine Miller. A fourth defendant, Gary Williams, was charged with a single offense, second degree robbery, and later he was removed from the case. Several of the defendants were also charged with attacking other victims during the riot.

The gang association charges were later dropped because the department's gang expert who identified the defendants as gang members was put under administrative charges for misconduct. In addition, the charges of torture also were dropped against all three defendants.

Just as with the Rodney King beating case, this prosecution soon proved to be very controversial. In May, after the suspects were charged, a hearing on bail was conducted. The prosecution argued that because of the alleged gang membership of the defendants and the nature of the crimes, they should be held without bail. But Los Angeles Municipal Court Judge William Chidsey, Jr. disagreed. He set the bail for Damian Williams at $580,000. Watson's bail was set at $500,000 and Miller's was set at $580,000. Unable to meet bail, the defendants remained in jail.

Several leaders in the black community criticized the judge's decision. Comparing the amount set to the lower amount for the four officers in the King case, Compton city councilwoman Patricia Moore complained that the "young men have not been treated with respect." In December, amidst continued criticism, the court lowered the bail amounts for Damian Williams, Watson and Miller to $250,000 each. Gary Williams bail was unaffected since it originally had been set considerably lower for the robbery charge facing him. Still, unable to meet bail, the defendants' remained in jail.

Williams' attorneys had also claimed that Denny may have provoked the beating by shouting racial slurs at the crowd in the intersection. None of the defendants claimed to have heard any racial slurs and one of them, when asked by

the prosecutors, denied it. Denny also denied it. Still the rumor persisted.

Controversy also arose over the selection of a trial judge for the case. One judge, an African-American, was challenged and removed by the prosecution. Denying that race was a factor, the district attorney claimed that the judge had conflicts in his trial schedules. When the judge denied this, the district attorney revised his statement and claimed that the judge lacked the right judicial temperament for the case. The defense also challenged and removed a white judge. Finally, another white judge, John Ouderkick, was selected as trial judge.

Another controversy centered around the attorneys who represented Damian Williams. After representing Williams through much of the early trial preparation, the head of the small firm, Fred Celani, was indicted for allegedly trying to defraud another client of $50,000 to bribe a federal prosecutor. He was removed from the case as were the other lawyers including William's own attorney, Dennis Palmieri. Celani claimed that the firm had been part of a government plot to hurt Williams' case. Palmieri claimed that Celani had forced him to withdraw a motion to keep out of evidence a damaging statement Williams made to police after his arrest. Williams' new attorney tried to get the charges dismissed by claiming that Williams lacked an effective lawyer. In January 1992, Judge Ouderkick denied the claim on the grounds that Palmieri had aggressively represented Williams and that there were independent grounds linking Williams to the beating. Williams' new lawyer, Edi M.O. Faal, vowed to appeal the ruling.

On the surface, the prosecution seemed to have a very strong case against the defendants. First, there is the videotape which shows details of the beating. Also, when questioned by the prosecutors, Williams admitted his participation. In addition, the prosecution lined up a number of witnesses to testify as to the details and identity of the defendants.

Nevertheless, the case has been haunted by comparisons to the trial of the four officers in the Rodney King beating case. On a surface level there are similarities. Both were captured on videotape. Both involved a brutal beating. In both, the races of those doing the beating and the victim were different. In both cases, many believed that the prosecution had a strong case.

On a legal basis, however, the cases are very different. In the King situation, the defendants were police officers acting under their authority to stop and arrest King as a suspected drunk driver. In the trial against those accused of beating Denny, the defendants had no such authority and Denny had broken no laws. In the King situation, the officers had the legal right to use force to overcome King's resistance to being arrested. The legal issue was whether that force was reasonable under the circumstances. The defendants in the beating of Denny do not have a similar claim.

In spite of the clear differences between the cases, some have argued that the harsher charges and treatment of the Denny defendants are based on their race. Others have gone further and suggested that because of the acquittal in the trial of the four officers, the charges against the Denny defendants should be dropped. That, or the jury should also acquit them. If they are convicted, others warn, more riots will follow.

How these factors will affect the trial of the defendants, scheduled to begin in late March, 1993, is an open question. Conducting any criminal trial is a difficult matter. Both the rights of the defendants and the interests of the people must be protected and balanced. Intense public scrutiny, media attention and controversy only make it more difficult.

For Discussion

1. What facts led to the arrest of the Denny defendants?

2. What controversies over the case have arisen? How might they affect the trial? How might they affect peoples' view of the verdict?

3. What are the legal differences between the case against the four officers in the Rodney King beating case and the case against the Denny defendants?

4. Should the verdict in the trial of the four officers have any bearing on the trial of the Denny defendants? Why or why not?

the color of JUSTICE

In Los Angeles, the light sentence given to Korean grocer, Soon Ja Du, in the killing of Latasha Harlins, the verdict in the Rodney King beating case, and the prosecution of the Denny defendants have all raised questions about the criminal justice system. Many in the black and other communities of color argue that these cases demonstrate the existence of racial discrimination. Other cases around the country have also fueled the debate.

Critics who claim that the system is tainted by racism have cited its treatment of African-American males. For example, statistical studies suggest that more than half of all black males in large cities can expect to be arrested at least once during their lifetime, while only 14 percent of white males are ever arrested. African-Americans make up 12 percent of the U.S. population, but they are 45 percent of all prison inmates and 40 percent of those sentenced to death. Even more startling, a quarter of all African-American males aged 20-29 are locked up, on probation or on parole.

The question remains whether these statistics are the result of a racist criminal justice system, higher crime rates of black males, or have other causes. Social scientists and politicians have argued about this question for decades. While the civil rights movement of the 1960s focused attention on these issues, 30 years later the concern is still with us.

In a controversial 1975 article titled, "White Racism, Black Crime, and American Justice," criminologist Robert Staples argued that there was discrimination in the justice system. He said the legal system was made by white men to protect white interests and keep blacks down. Staples charged that the system was characterized by second-rate legal help for black defendants, biased jurors and judges who discriminate in sentencing.

A dozen years later, sociologist William Wilbanks rejected the discrimination argument. In his book, *The Myth of a Racist Criminal Justice System*, Wilbanks reviewed scores of studies that seemed to show statistical inequalities between whites and blacks in arrest rates, imprisonment and other areas of criminal justice. He argued that the inequalities were due to factors other than racial discrimination, such as poverty and the prior record of the defendant.

Other sociologists, too, have suggested that the apparent inequalities have more to do with poverty than race. Street crimes such as robbery, assault and drug arrests feature heavily in the statistics, and these crimes are often committed by those from poor backgrounds. Today, almost 45 percent of all African-American children grow up below the official poverty line, compared to only 16 percent of all white youngsters. These figures grew worse throughout the 1980s as cutbacks in federal poverty programs and shifts in the economy reduced job opportunities in America's inner cities, especially for black males.

The connection between poverty and crime has always been with us. During the 1930s, a much larger part of the white population was poor, and whites committed a greater percentage of the street crime. Whites then accounted for nearly 80 percent of those in prison—compared to 40 percent today. The question of poverty alone may well account for many of the apparent inequalities in the system.

A Rand Institute study in 1983, however, unearthed some disturbing data. Rand compared the treatment of whites and blacks at key decision points in the criminal justice system. The researchers found that African-American defendants seemed to be treated more harshly at key points such as sentencing. However, the researchers did not nail down a cause for these inequalities. Later studies have provided more insight into this troubling question.

Plea Bargaining

The *San Jose Mercury News* conducted a massive study of 700,000 California legal cases over a 10-year period. The paper reported in December 1991 that 33 percent of white adults with no prior record were able to get felony charges against them reduced. Only 25 percent

ON TRIAL

of the African-Americans and Latinos with no prior convictions were as successful in plea bargaining.

The *Mercury News* study did not blame intentional racism as the cause of the inequalities. It did, however, suggest that some of the problem came from subtle cultural fears and insensitivity. The study noted that over 80 percent of all California prosecutors and judges are white, while more than 60 percent of those arrested are non-white.

Constance Rice, a lawyer for the NAACP Legal Defense Fund in Los Angeles, explained that when prosecutors and judges use their discretion, "we have always found evidence to support the notion that race plays a role."

Jury Verdicts

In 1985, Cornell law professor Sheri Lynn Johnson reviewed a dozen mock jury studies. She concluded that the "race of the defendant significantly and directly affects the determination of guilt." In these studies, identical trials were simulated, sometimes with white defendants and sometimes with African-Americans. Professor Johnson discovered that white mock jurors were more likely to find a black defendant guilty than a white defendant, even though the mock trials were based on the same crime and the same evidence.

And Professor Johnson found that black mock jurors behaved with the reverse bias. Black jurors found white defendants guilty more often than black defendants. Furthermore, the race of the victim in the case affected both groups. If the victim was black, white jurors tended to find a white defendant less blameworthy. In the same way, if the victim was white, black jurors found black defendants less blameworthy.

According to these mock jury experiments, both white and black jurors seem to show some discrimination. However, Professor Johnson did not think the juror bias was intentional. "Because the process of attributing guilt on the basis of race appears to be subconscious," Johnson says, "jurors are unlikely either to be aware of or to be able to control that process."

The mock trials did have one encouraging result. When white and black mock jurors met together, as many real juries do, the effect of race tended to disappear. This seems to indicate that the best way to eliminate racial bias in verdicts is to select racially mixed juries. The U.S. Supreme Court has moved in this direction by prohibiting both prosecutors and defense lawyers from eliminating prospective jurors solely on race. [See *Batson v. Kentucky*, 476 U.S. 79 (1986) and *Georgia v. McCollum*, 112 S.Ct. 2348 (1992).]

However, a different study, conducted at Memphis State University in 1979 by psychologist J.L. Bernard, pointed to less clear conclusions. In that situation, a panel of six blacks and six whites deadlocked along racial lines on the guilt of a black defendant. According to Bernard, the message of the studies might be that "black jurors as a whole may be more likely to acquit a defendant, regardless of race," because they are more suspicious of police motives and witnesses.

Sentencing

The 1983 Rand Institute study found that convicted African-Americans were more likely than whites to go to prison. And their sentences

were longer. "This disparity," the study concluded, "suggests that probation officers, judges, and parole boards are exercising discretion in sentencing and/or release decisions in ways that result in de facto discrimination against blacks." De facto means the discrimination exists in fact, but is not encouraged by the law.

Unintended discrimination can occur at many points in the legal process. Probation officers often prepare pre-sentencing reports for a judge. The judge uses the reports to help make sentencing decisions. A pre-sentencing report includes information on the criminal's prior record as well as the family background, education, marital status and employment history. Many African-Americans convicted of crimes come from deprived backgrounds. They may have things in their previous records—unemployment, trouble in school, family problems—that judges, who largely come from middle-class backgrounds, cannot relate to. This may sway some judges to treat them more harshly in sentencing.

Death Penalty

The State of Georgia conducted a careful study of 2,000 murder cases that had been prosecuted during the 1970s. The study showed that defendants convicted of killing whites were more than four times more likely to receive the death penalty than those convicted of murdering African-Americans. The study also revealed that black defendants who murdered whites had by far the greatest chance of being sentenced to death.

A Georgia black man who had been sentenced to death for killing a white police officer used this study in his appeal to the U.S. Supreme Court. He claimed the study proved that Georgia's jurors and judges discriminated against African-American defendants. In a 5-4 decision, the Supreme Court accepted the results of the study, but ruled that it did not prove the discrimination was intentional. Writing for the majority, Justice Lewis F. Powell concluded that the study failed to "demonstrate a constitutionally significant risk of racial bias affecting the Georgia capital sentencing process." [*McCleskey v. Kemp*, 481 U.S. 277 (1987)]

On the whole, most studies have shown that there appears to be some racial discrimination in the American criminal justice system, but it is not intentional. Legal experts also point out that it is often difficult to prove that the outcome of any one case was influenced by unintentional racism. Moreover, while the precedents of the U.S. Supreme Court over the last 30 years have rooted out many overtly racist practices, such as in police lineups and jury selection, it is more difficult to address unintentional racist factors. Because these factors are rooted in subtle assumptions and fears deeply ingrained in the wider society, only when society changes will they disappear.

Critics of the system, however, insist that inequalities, regardless of their basis, should not be swept under the rug. They maintain that any discrimination is intolerable and has to be eliminated.

For Discussion

1. What factors do you think are most important in accounting for the higher rates of African-American males being arrested or in prison? Why?

2. In the *McCleskey* death penalty case, the Supreme Court ruled that juries and judges do not discriminate unconstitutionally unless they do so intentionally. Do you agree or disagree with this decision? Why or why not?

3. According to Andrew Hacker, author of *Two Nations, Black and White, Separate, Hostile, Unequal*, "The feeling persists that a black man who rapes or robs a white person has inflicted more harm than black or white criminals who prey on victims of their own race." Do you agree with this statement? Why or why not? If so, what might account for the difference?

4. What can society do to eliminate unintentional racism in the criminal justice system? What can you do as an individual? Write a one paragraph essay explaining how each of the following might help address the problem:

- Voting and Political Participation
- Educational and Career Choices
- Interracial Contacts and Interaction

a new ERA

The verdict in the Rodney King beating case and the destructive riots that followed spurred many reforms, especially those affecting the police. Actually, the process began before these events.

By April 1992, just weeks before the verdict, Police Chief Gates, under pressure, agreed to retire. Many felt that his decision was long overdue. They claimed that his handling of the investigation and his refusal to step down immediately had made a bad situation even worse. In addition, critics of the chief blamed him for many of the tensions which existed between the police department and the city's minority communities. They believed that his public statements, over the years, had racist overtones and showed insensitivity to the legitimate complaints of community members. Others criticized Chief Gates for setting the aggressive style of LAPD police tactics which, many believed, infringed on citizens' rights. Still, Chief Gates had many supporters. They believed that during his career he had done much to help protect the city from a growing crime problem.

Los Angeles' new police chief, Willie Williams, has vowed to reform the LAPD. (UPI/Bettmann)

In June 1992, the voters passed an amendment to the Los Angeles City Charter which made the office of chief of police more accountable to the mayor and strengthened the role of the city's police commission. This is a five member body of citizens appointed by the mayor to oversee the police department.

By July 1, the new police chief, Willie L. Williams, took command. Committed to reform, the new chief, an African-American, met with members of L.A.'s ethnic communities as well as with politicians and civic groups. Besides the input from these groups, Chief Williams had the recommendations of several commissions to guide his plan of action.

The Christopher Commission, convened after the Rodney King incident, did a thorough study of the policy and practices of the LAPD relating to the use of force and racial attitudes. Its recommendations included greater accountability, a better system of officer discipline and improvements in training.

The Webster Commission, headed by a former director of the FBI, was charged with evaluating the police handling of the riots. After a six-month study, it severely criticized the department's performance and recommended preventative measures such as better police-community relations and re-deployment of police resources at the community level. It also recommended better emergency planning and response techniques.

In addition to these findings, Chief Williams had his own experiences and ideas to guide him. As the police chief of Philadelphia, Williams had put into practice what is called "community policing." In his own words, community policing means:

> "a management style that involves the people in the various neighborhoods in the day-to-day running of the police department. In Philadelphia, the city is subdivided into 23 patrol districts. We have a neighborhood advisory group in each of those patrol districts that meets with the commander on a regular basis, at least monthly, usually weekly, and they discuss the resources available to that commander and the issues that are important in that neighborhood, whether it is narcotics or drug use on the corner or whatever it might be. And they set general priorities on how they are going to go after some of these concerns in that neighborhood."

Another key component of community policing is having more police actually on the streets, in squad cars, but preferably on foot. Police need to understand the specific needs and problems of a community. They also need to get to know the people who live there. This will be a special challenge in sprawling Los Angeles.

Under the notion of community policing, law enforcement is definitely a two-way street. The police are responsible for being sensitive to the needs and differences of each neighborhood. The residents of the neighborhood are responsible for taking a personal interest in the problems and helping guide and support the police.

Some wonder whether the idea of community policing will work in Los Angeles, a much larger and more diverse city than Philadelphia. Critics maintain that there is so much distrust between the police and various communities that much work needs to be done just to get them talking.

Most experts agree on one thing. To make community policing a reality, Los Angeles must hire and train many more police officers. Currently, on a **per capita** basis, Los Angeles is one of the most under-policed metropolitan areas in the nation. It has only 7,800 officers. A ballot initiative on the November 1992 ballot asked voters to approve funds to hire 1,000 new police officers and upgrade their equipment. It failed to get the two-thirds vote required for passage. It did, however, get a "yes" vote in excess of 60 percent. Some have claimed that this is a hopeful sign that voters are more willing to pay for better police protection.

Even Chief Williams is cautious. In public statements, he has pointed out that solving the problems will take a long time. The department is currently developing a five-year plan. New police must be hired and trained. Existing methods must be changed and officers re-deployed. Better methods of use of force must be developed and training programs must be improved to address community-police relations. Most important, the citizens of Los Angeles must give the reforms time to work and must take a greater responsibility for law enforcement. Everyone wants the new system to work. The question remains whether everyone will take part in making it work.

For Discussion

1. What commissions studied the problems of policing in Los Angeles? What did they conclude?
2. What is community policing? How does it work?
3. Do you think community policing and the other reforms will help improve law enforcement in Los Angeles?
4. Does your community face problems with law enforcement? If so, how would you describe them? Are they similar to those in Los Angeles? Why or why not?

Among the expected changes to LAPD practices and policies are the improvement of existing use of force methods and training techniques. (Bettmann Archives)

a c t i v i t y

taking action/
WHAT CAN WE DO?

Throughout *Reviewing the Verdict* we have explored issues and policies affecting police and community relations. One thing is certain: To assure good police-community relations everyone must get involved. What can citizens, individually and working in groups, do to make a difference?

To take action, you need a plan. Working with your group, here are some steps to take in making your own plan.

Step 1: Defining the Problem As a group, discuss and answer the following questions.

- Based on what you have learned, what are police-community relations like in our community?
- Are there problems? What causes these problems?
- What groups are affected by the problems? (racial, age, sex, economic)
- What might happen if these problems are not addressed adequately?

Step 2: Brainstorm—What Can We Do? As a group, brainstorm specific project ideas to address the problems. Ask:

- What ideas do we have to improve police-community relations?

Possible projects include:

- Organizing tours to the police station for elementary students;
- Inviting police officers to have lunch at local schools to meet students, teachers and parents to discuss improving relations;
- Organizing an evening community/police forum at a local school or community site to discuss problems and solutions;
- Joining or starting a "community watch" group to help reduce crime and ensure better relations;
- Forming or joining a police-community action group or neighborhood advisory group made up of a range of community members to assess community policing needs, identify tensions and facilitate communication between the police and the community.

Once ideas are listed, ask group members to choose a project based on the following questions:

- Does the project address the issue?
- Could we successfully complete this project?
- Do we have the time and resources?

Step 3: Strategies and Responibilities List the necessary tasks to accomplish your project. Ask:

- What steps are necessary to accomplish your project?
- Who will be responsible for completing each step?

Step 4: Evaluation Once your project is completed, determine how well it worked and why.

- Was your plan successful?
- What impact did your project have?
- What problems did you face? How did you solve them?
- Was there anything you would do differently?
- What did you learn from this experience?

a c t i v i t y

the commission DECIDES

Introduction: Imagine that you have been appointed to serve on a commission to make recommendations to government leaders about a proposed policy. A policy is a settled way of doing things. Policies can be adopted by government, schools, businesses and even individuals. Policies are often defined in rules, laws or court decisions. Just like the Christopher and Webster commissions, it will be your job to study and make recommendations about policy.

Directions:

Step I: Forming the Commission When you have been assigned to your commission, choose a **Chairperson**. The last name of this person will be the name of your commssion. The chairperson will lead the discussions and report your findings to the class. The chairperson will also sign his or her name to the report you produce. The rest of the members of your group will be commission members. Each one has an important role. Select:

- 1 **Recorder**: This commission member will take notes on the commission's discussions.
- 1 **Writer**: This commission member will write the final version of the report.
- 1 **Editor**: This commission member will check the final version of the report for clarity and accuracy.
- 1 or 2 **Researchers**: These commission members will carefully review all materials for facts and arguments which the commission will use in its discussions and findings.

Step 2: The Problem Your commission will be assigned a problem for study. All members of the group must read it carefully and all the other materials that will give you ideas about it.

Step 3: The Discussion As a group, discuss the following questions about your problem. The chairperson should lead this discussion. The recorder should take notes on the group's answer to each question.

Policy Analysis Questions:

1. What is the proposed policy? Who might adopt it?
2. What problem is it designed to address? Does it address the problem? Why or why not?
3. Who might support the policy? Who might oppose it? Why?
4. What might happen if the policy is adopted?
   - What are the claimed benefits? What other benefits might result?
   - What are the claimed costs? What other costs might result?
5. Based on these benefits and costs, should the policy be adopted? What if it is not adopted?
6. Are there any better ways of solving the problem? What are they? Why are they better?

Step 4: Preparing the Report Working as a group, help the writer summarize the groups' answers to the questions into a one paragraph report. Make sure the report:

1. States the commission's conclusion.
2. Gives reasons for the conclusion.
3. Discusses any alternatives the commission recommends.

Once the report is written, the editor should check it. Then the chairperson should prepare to summarize it for the class.

Step 5: Making the Report When called to report, the chairperson should stand, give the commission's name, and read the report. All members of the commission should be prepared to answer questions about the findings.

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Criminal Justice in America: A full text on all aspects of the criminal justice system including the causes and definitions of crime, laws and issues affecting the police, the criminal case process, juvenile justice, correction and public policy. (A newly revised edition will soon be available from Constitutional Rights Foundation.)

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Alan V. Friedman, *President*
Constitutional Rights Foundation

Jerome C. Byrne, *Chairman*
Constitutional Rights Foundation
Publications Committee

Written and Designed by
Marshall Croddy

Editors
Lisa Friedman, Bill Hayes, John Shannon

Reviewers
Jerome C. Byrne, Paul W. Cane Jr.,
Raymond C. Fisher, Bondie Gambrell,
Lloyd M. Smith, Terry White

Principal Staff and
Staff Reviewers
Todd Clark, *Executive Director*
Kathleen Kirby, *Education Director*
Carolyn Pereira, *Executive Director, CRF/Chicago*
Diana Hess, *Assoc. Executive Director, CRF/Chicago*

Ieshia Black, Jesse Church, Carolyn Cunningham,
Keri Doggett, Hal Ellis, Eleanor Song, Elenor Taylor

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Production
Eleanor Song, Production Coordinator
Gary Bernard, Design
Andrew Costly, Desktop Publishing

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For Further Information Contact:
Marshall Croddy
Director of Program and Materials Development
Constitutional Rights Foundation
601 S. Kingsley Drive
Los Angeles, CA 90005
(213) 487-5590

INSTRUCTOR'S INTRODUCTION

The history of the United States is punctuated by significant trials and legal cases. The names of some echo through time—John Peter Zenger, Dred Scott, Scopes, the Scottsboro boys, *Brown v. Board of Education, Miranda*—either because they changed history or helped define an era. In recent months a new case has seized the public mind. Officially, it is called *People v. Powell, Wind, Briseno and Koon*, but is better known as the Rodney King beating case. It is too early to tell how historians will measure the significance of this criminal trial and verdict, but it has already had a great impact on a city and a nation.

Beyond the legal significance of the case, it sparked one of the most destructive civil disturbances in our nation's history and spurred heated debates about fundamental issues of justice in our society. It has divided reasonable minds and pointed to deep divisions among people. It has forced some Americans to question their basic beliefs about what our country is all about.

While these questions cannot be addressed in the short term, other important ones can be. What does this case tell us, if anything, about our criminal justice system? Does the case and its aftermath argue for fundamental changes in the ways we determine guilt and innocence of criminal defendants? Do we need to re-examine basic legal doctrines such as reasonable doubt, change of venue, reasonable force and a trial by one's peers? Can our system of justice be effective in an age of mass electronic media, instant analysis and political turmoil? As with the even larger political and social issues raised, there is a great diversity of opinion and little consensus on these matters.

One thing is certain. It is impossible to begin to answer these questions without a clearer understanding of our criminal justice system...how it works, what assumptions it relies on and why the jury in the *People v. Powell* case delivered the verdict it did.

The following materials have been prepared to assist teachers and community groups in discussing some of the legal and constitutional issues raised by the verdict in the Rodney King beating case. The purpose of the materials is to provide a substantive approach to the events of the trial and structured methods by which participants can develop a greater understanding of the issues of the case and the legal doctrines and principles which shaped it.

OBJECTIVES

At the completion of this unit, participants will be able to:

1. Recall the basic facts and sequence of events in the Rodney King beating trial;

2. Describe the legal processes of change of venue and jury selection;

3. Describe and apply the legal doctrine of reasonable force to a given situation;

4. Form questions that probe underlying values and attitudes;

5. State and support a reasoned opinion about the verdict in the case;

6. Identify two criminal cases, *United States v. Powell et al* (the federal prosecution of the four officers) and *People v. Williams et al*, (the state prosecution of those accused of beating Reginald Denny), and compare and contrast them on a factual basis with the state prosecution of the Rodney King beating case;

7. State and support a reasoned opinion on the effect of race at key decision-making points in the criminal justice system;

8. Describe the concept of community policing and the role of citizens in improving police-community relations; and

9. Analyze a given policy proposal and state and support a reasoned opinion about it.

OVERVIEW

The following outline gives instructors and discussion leaders a quick overview of the lesson components available with these materials. The amount of time needed for each component will vary with the ability level of the class. The major instructional techniques utilized in these materials include:

- **Reading and Directed Discussion:** A series of brief readings supported by discussion questions detailing the facts of the case, the sequence of events and major legal procedures and issues raised;
- **Video Presentation and Directed Discussion:** A short video presentation provided by NBC's *Today Show* in which attorneys from the prosecution and defense discuss their strategies in the case and the jury's verdict.
- **Interactive Activities:** Cooperative group activities linked to the readings and discussions in which students develop critical thinking skills by applying basic legal concepts such as **voir dire**, change of venue and reasonable force to given situations.
- **Policy Question:** A set of policy questions which appear at the end of certain readings and activities. These are designed to serve as the basis for an activity, **The Commission Decides**, which encourages participants to analyze and evaluate various policies proposed to address issues raised by the verdict and its aftermath.
- **Taking Action:** A series of three activities which encourage participants to work together to identify problems, learn about current policies and plan projects to help improve police-community relations.

The materials are divided into two major sections, **Trial and Verdict** and **Aftermath**. Section I, **Trial and Verdict**, covers the basic law and facts of the case, the major legal issues that arose, the prosecution and defense theories and presentation, and the verdict.

Section II, **Aftermath**, covers the reaction to the case in terms of the civil disturbances that followed it and the media response, the federal prosecution of the four officers, the state prosecution of the defendants in the beating of Reginald Denny, the issue of race as it affects the criminal justice process, and police reforms that have been implemented as the result of the case and its aftermath.

CONTENTS

Introduction: A reader's overview of the materials highlighting the purpose and issues covered.

Section I Trial And Verdict

Perceptions of the Trial: A brief questionnaire designed to determine participant knowledge and opinions about the case.

The Police and Rodney King: A reading and discussion on the events of March 3, 1991 leading to the beating and arrest of Rodney King based on the evidence presented at trial.

The Public Reacts: A reading and discussion on the public and political reaction to the Holliday videotape.

Taking Action/What's the Problem?: A survey activity challenging participants to determine public perceptions of police-community relations in their own neighborhoods.

The Law of the Case and the Prosecutor's Burden: A reading and discussion on the law applied to the case highlighting reasonable necessity, the legal burden on the prosecution and doctrine of reasonable doubt drawn from trial judge's actual instructions to the jury.

What is Reasonable Force?: A reading and discussion on the doctrine of reasonable force as it applies to police officers, controversies over the tactics of the LAPD and the use of deadly force.

Policy Question/Proning: A simulation activity in which participants take the role of members of a policy commission to analyze and evaluate the police policy of forcing suspects to lie prone on the ground for searching or arrest.

Reasonable Force in Action: A simulation activity in which participants take the role of police officers, review use of force options, and apply them to hypothetical field situations.

Taking Action/What's the Policy?: An activity in which participants are challenged to interview police officers and attorneys to determine the reasonable force policies applied in their own communities.

Before the Trial: A reading and discussion on pretrial motions and the judicial decision to transfer the trial of the four officers to Simi Valley.

Policy Question/Change of Venue: A simulation activity in which participants take the role of members of a policy commission to analyze and evaluate a proposed policy to make demographics a factor in selecting alternative trial sites.

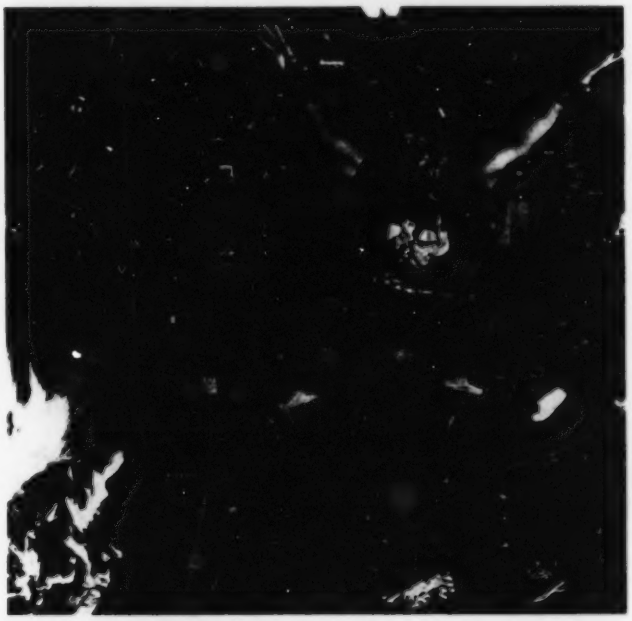
A Change of Venue: A case study activity in which participants take the role of appeal court judges to determine whether a change of venue should be granted in actual historical cases.

Jury Selection: A reading and discussion on the jury selection process used in the case against the four officers.

Policy Question/Affirmative Action on Juries: A simulation activity in which participants take the role of members of a policy commission to analyze and evaluate a proposed policy to assure diverse juries for selected criminal trials.

Questions for the Jury: A simulation activity in which participants take the roles of judge and prosecuting and defense lawyers in the trial of the four officers to design questions to ask hypothetical prospective jurors.

Prosecution, Defense and Verdict: A reading and discussion on the prosecution and defense theories and arguments used in the case against the four officers based on the evidence actually presented at trial, the verdict and the riots that followed.



Section II Aftermath

A Matter of Opinion: A reading and discussion on the range of public and editorial opinion following the verdict, an analysis of the jury's decision, and the role of media.

The Editor's Decision: A simulation activity in which participants take the role of television news decision-makers to determine coverage of a hypothetical and controversial legal case.

The Federal Prosecution: A reading and discussion on the federal civil rights prosecution of the four officers.

Policy Question/Double Jeopardy: A simulation activity in which participants take the role of members of a policy commission to analyze and evaluate current federal law which permits prosecution of defendants for civil rights violations who have already been acquitted of similar crimes in state courts.

The Trial of the Denny Beating Defendants: A reading and discussion on the criminal trial against the four young men for the beating of Reginald Denny.

The Color of Justice: A reading and discussion on the issue of how race might affect key points in the criminal justice case-process based on research and study findings.

A New Era: A reading and discussion on the efforts for police reform in Los Angeles, the role of police chief, Willie Williams, and his commitment to community policing.

Taking Action/What We Can Do?: A brainstorming and action-planning activity in which participants are challenged to develop ideas and take action to improve police-community relations.

The Commission Decides: Participant instructions for simulating the work of a hypothetical policy commission for use with all four **Policy Questions**.

INSTRUCTOR'S OPTIONS

These materials have been designed to be used in a number of formats and time frames. Time frames for covering the material will vary with the ability level of the group. For this reason, suggested time frames are given as a range. Instructors are encouraged to select the option most appropriate for their group's needs, interests and priorities. Because of the sophisticated nature of some of the content and the controversy surrounding the issues presented, instructors are also encouraged to thoroughly review the materials selected for use in advance of actual presentation. This step will help prepare the instructor for participant reactions and questions. (Also see **A Guide for Managing Controversial Issues** on page 14 of this guide.)

In addition, it is recommended that instructors utilize volunteer attorneys and other legal and media professionals as co-presenters to help field questions of a technical nature and to interact with participants as activities are conducted. See **A Guide for Identifying and Preparing Resource Volunteers** on page 13 of this guide.

OPTION 1—Workshop Format (Approximately 2 Hours): This option provides instructors with a method for introducing participants to the basic facts and law of the case, including a video presentation with interviews with the prosecutor and a defense lawyer.

Preparation:

- Review Participant Packet
- Arrange for a videotape player; review and cue videotape
- Prepare chalkboard or butcher paper

Introduction: Write the following objectives on the board and review them with the participants.

At the completion of the session participants will be able to:

1. Describe the trial of the four officers accused of beating Rodney King in terms of the facts and law of the case; and

2. Compare media-based perceptions of the case with its facts, law and verdict.

Procedures:

1. Overview Materials: Mention that the materials are designed to provide a complete overview of the case against the four officers tracing its progress from arrest to verdict, the related criminal prosecutions, and the broader political and social issues raised by the case and the verdict's aftermath. Then, briefly walk participants through the table of contents and describe the various features.

2. Focus Activity: One Word Brainstorm—This activity will help the instructor gauge the audience and demonstrate the depth of feeling about the case. Ask participants to provide one word that best describes their reaction to the verdict in the trial of the four officers accused of beating Rodney King. As each is identified, list it on the board. The words will probably reflect both an emotional reaction and confusion

about the case. Example responses might include: shock, disbelief, anger, confusion, injustice, satisfied, racist, whitewash, justified, concerned, etc.

Review the list and explain that, because the trial and verdict were so controversial, these words often are used to describe the case. If supportable, also point out that the words identified demonstrate an array of opinion and conclusions about the case.

3. Questionnaire: Refer to **Perceptions of the Verdict**, on page 5. Ask participants to work in pairs and take five minutes to answer the questions presented. Briefly discuss their responses to the question on the facts and law. List key facts and issues of law on the board. Then concentrate on questions 3 and 4.

- **Based on your understanding of the facts and legal issues, did the jury come to a just verdict? Why?** Participants are likely to have deep opinions about the case and the nature of justice. The instructor should encourage a full discussion of these matters, but challenge each to give reasons for the opinion offered. Conclude the discussion of this question with a straw vote of the group.
- **Where did you get your understanding of the facts and legal issues, and verdict of the trial? (Be as specific as possible.)** Participants will most likely cite television news, newspapers, magazines and word of mouth as sources.

4. Reading and Paired Discussion: Refer to **The Police and Rodney King** on page 6 which gives a factual summary of the arrest. Explain that participants will now begin the process of exploring the facts of the case. Working in pairs, have participants read the handout and underline any information that is new to them. Then, still working together, instruct each pair to discuss the questions that follow the reading and add any new facts to their questionnaires. Summarize their responses on the board.

5. Reading and Paired Discussion: Repeat the process with **The Public Reacts**. Have participants add any new information to their sheets and discuss.

6. Video Presentation: NBC *Today Show* segment, May 5, 1992

- **Running Time:** Approximately 20 minutes
- **Preparation:** List the following questions on the board.

  1. What additional facts were covered in the video?

  2. Based on the video, what arguments did the prosecution make?

  3. Based on the video, what arguments did the defense make?

  4. What role did the media representatives play in discussing the case? Did either Katie Couric or Star Jones disclose a point of view about the verdict? Did you detect any bias for one side or the other in the presentation?

- **Set up:** Explain that the video segment being shown is from NBC's *Today Show* originally aired on May 5, 1992, several days after the verdict was announced. It includes a discussion with attorneys who tried the case. Refer participants to the questions on the board and ask that they keep them in mind as they view the video.
- **Discussion:** Lead a group discussion based on the questions on the board.

7. Debriefing: Conclude the session by referring participants back to the one word brainstorm responses. Ask participants to repeat the activity and compare their responses. Then ask:

- Imagine that it is 11:30 p.m. on March 2, 1991, approximately one hour before Rodney King was spotted by the two CHP officers. What advice would you give to Rodney King? What advice would you give to the four LAPD police officers?
- If you could change one thing about how the criminal justice system handled the case of the four officers, what would it be? Why? If you could change one thing about how the media handled the case and verdict, what would it be? Why?
- As a citizen, what can you do to assure justice? What can you do to improve police-community relations?

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- What additional information do you need to know about the case and the verdict? (As participants respond, refer them to the appropriate sections in the materials.)

OPTION 2—Law and Policy (6 to 10 Hours): This option provides instructors with a more in-depth approach to the facts, law and policy implications of the case.

Procedures:

1. In Sessions 1 and 2, conduct steps 1-5 above. However, instead of concluding with the videotape presentation and debriefing, have participants read, **Law of the Case and the Prosecutor's Burden** on page 12 and lead a group discussion using the questions that follow.

2. Session 3—Issues of Reasonable Force

- **Reading and Discussion:** Have participants read **What is Reasonable Force?** on page 14. Lead a group discussion using the questions that follow.
- **Simulation: Policy Question/Proning**—Conduct a simulation on the issue of LAPD proning tactics using **The Commission Decides** on page 46. Instructions for conducting this simulation are on page 12 of the Instructor's Guide. Or,
- **Simulation: Reasonable Force in Action**—Conduct a simulation in which participants take the role of police officers faced with field situations. To conduct this activity, follow these steps:

1. Preparation: Arrange for a police officer to visit your group to participate in the activity. The police officer should be sent the materials in advance, circulate among the participants as they prepare, and help debrief the activity.

2. Conducting the Activity: To conduct the activity, follow these steps:

Step 1. Have participants read **Reasonable Force in Action** on page 16. Discuss any questions they might have.

Step 2. Divide the participants into groups of two or three. Review the instructions and have each pair respond to each of the three cases in the reading and answer the questions that follow. Make sure that both are prepared to answer questions about their responses. Have the police officer circulate among the pairs to answer any questions.

Step 3. Lead a group discussion on the participant decisions. Ask:

- What happened in Situation A? (Call on volunteers or select a participant to recall the facts.)
- What level of force is appropriate under these circumstances? (Call on one pair of participants to respond.)
- What force option did you use?
- What circumstances justified your decision?
- Did other officers respond in a different way? Why?

Ask the police officer to describe how this situation would be dealt with in the field. Ask participants to respond with questions or comments to the officer's approach.

Repeat this procedure for Situations B and C.

Step 4. Debrief the activity using the following questions:

- How difficult was it to decide what to do?
- How typical are these situations in the everyday life of a police officer?
- What kind of training can help police officers deal with these situations?
- Based on this experience, how should citizens conduct themselves when dealing with the police? How should police conduct themselves when dealing with the public?

3. Session 4—Legal Issues

- **Reading and Discussion:** Have participants read **Before the Trial** on page 19. Lead a group discussion using the questions that follow.
- **Simulation: Policy Question/Change of Venue**—Conduct a simulation on the issue of requiring demographics to be a consideration when selecting a site for a change of venue using **The Commission Decides** on page 46. Instructions for conducting this simulation are on page 12 of the Instructor's Guide. Or,
- **Case Study: Change of Venue**—Conduct a case study activity in which participants take the role of appeal court judges to decide whether a change of venue should have been granted in two historical cases. To conduct the activity follow these steps:

  Step 1. Have participants read **A Change of Venue** on page 21.

  Step 2. Divide the group into triads and make sure that each member understands his or her individual role. Review the instructions and have each triad review both Cases A and B. Discuss any questions they might have.

  Step 3. Call on the reporting judge from each of the triads to give its decision on the two cases. Direct follow-up questions to the other members asking them to defend or support the decision. Continue the process until all of the triads have given a decision. (If grading on this activity, the instructor may wish to collect the opinions and answers to the questions and give a combined grade for the group.)

  Step 4. Debrief the activity by informing the participants that in both cases appellate courts ruled in favor of a venue change. In *United States v. Holder*, the Wounded Knee case, a federal district court overruled the state court decision denying venue on the grounds that the deeply held views in the community and the publicity of the case made the probability of a fair trial unlikely. In *Pamplin v. Mason*, a 1966 U.S. Court of Appeals case, the court reversed the defendant's conviction and ordered a new trial strongly suggesting that a change of venue be considered. Then ask:

  - Do you agree with these decisions? Why or why not?
  - Given what you have learned about change of venue, do you think the trial of the four officers should have been transferred from Los Angeles? Why or why not? To Simi Valley? Why or why not?

4. Session 5—Jury Selection

- **Reading and Discussion:** Have the participants read Jury Selection and answer the questions that follow it.
- **Simulation: Policy Question/Affirmative Action on Juries**—Conduct a simulation on the issue of changing the venue in the case of the four officers using **The Commission Decides** on page 46. Instructions for conducting this simulation are on page 12 of the Instructor's Guide. Or,
- **Simulation: Questions for the Jury**—Conduct a simulation in which participants take the roles of a trial judge, a prosecutor and a defense lawyer in questioning potential, hypothetical jurors in the trial of the four officers accused of beating Rodney King. To conduct this activity, follow these steps:

  1. Preparation: Arrange for a trial lawyer to visit your group to participate in the activity. The resource person should be sent the materials in advance, circulate among the participants as they prepare, and help debrief the activity.

  2. Conducting the Activity: To conduct the activity, follow these steps:

  Step 1. Have participants review **Jury Selection** and read **Questions for the Jury** on page 23. Discuss any questions they might have.

Step 2. Select four participants to take the role of the jurors. Then, divide the rest of the participants into groups of three. Have each group count off 1, 2, 3. If there is one additional participant left over assign him or her to a group. If there are two additional participants left over assign them both to the same group. Put the following on the board.

1 = Trial Judge

2 = Prosecution Lawyer

3 = Defense Lawyer

If you have a group of four, assign two judges. If you have a group of five, assign one participant to be an extra prosecution lawyer and one participant to be an extra defense lawyer.

Step 3. Review the instructions and have each attorney prepare questions using the worksheet and each judge review the profiles. Judges and attorneys should be encouraged to work together with their counterparts in other groups to complete the tasks. Have the lawyer resource person circulate among the groups to answer any questions. Have the jurors prepare for their roles. Allow the groups about 15 minutes to complete their assignments.

Step 4. Cue the participants to complete their worksheets and return to their original groups. Then have the trial judges take a few minutes to select the two best questions.

Step 5. Arrange the room with the four jurors seated in front as in a jury box. Instruct the judges not to ask repetitive questions and then call on them one at a time to ask the jurors questions. Make sure that each juror is asked at least one question.

Step 6. When the questioning is completed, ask the prosecution and defense lawyers for challenges, either for cause or peremptory. All those for cause must be supported by a reason.

Step 7. Debrief the activity by having the lawyer-resource person compare these procedures with those actually used in courts and discuss whether the challenges would be sustained. Then ask:

- Was it difficult to decide which questions to ask? Why or why not?
- Did the juror responses help you decide if they would be fair?
- Is this a fair way to pick a jury? Why or why not?

5. Session 6—Prosecution, Defense and Verdict

- **Reading and Discussion:** Have participants read **Prosecution, Defense and Verdict** on page 25 and lead a group discussion on the questions that follow.
- **Video Presentation:** Conclude the session by having participants view and discuss the video as described above. You may also want participants to read and discuss **A Matter of Opinion** on page 29 which describes the reaction to the verdict and provides an analysis of how the jury reached the conclusion it did.

OPTION 3—Current Issues (10 to 15 hours): This option provides instructors with a focus on the issues of law and policy as raised by the case, including the federal prosecution of the four officers and the criminal prosecution of those accused of beating Reginald Denny during the L.A. riots; and broader political and social issues including the debate over what role race plays in the criminal justice system and police reforms.

1. Conduct **Sessions 1-6** above.

2. Sessions 7 and 8—Opinion and the Media

- **Reading and Discussion:** Have participants read **A Matter of Opinion** on page 29 and lead a group discussion using the questions that follow.

- **Simulation: The Editor's Decision**—Conduct a simulation in which participants take the roles of a news editor, a managing editor, a reporter, and a legal advisor who must decide how to cover a late breaking story involving a videotape of a police arrest and investigation. To conduct this activity, follow these steps:

  1. Preparation: Arrange for a news media representative or a journalism teacher to visit your group to participate in the activity. The resource person should be sent the materials in advance, circulate among the participants as they prepare, and help debrief the activity.

  2. Conducting the Activity: To conduct the activity, follow these steps:

  Step 1. Have participants review **A Matter of Opinion** and the directions for **The Editor's Decision** on page 31. Discuss any questions they might have.

  Step 2. Divide participants into groups of four. Have each group count off 1, 2, 3, 4. Put the following on the board.

  1 = News Editor

  2 = Managing Editor

  3 = Reporter

  4 = Legal Advisor

  If there are additional participants left over assign each one to a group and explain that they will take the role of reporters.

  Step 3. Have each of the teams read the hypothetical on pages 31-32. Discuss any questions they might have. Then, working in their groups, have participants complete the activity by discussing and answering the questions on pages 32-33 from the point of view of their various roles. Ask the resource person to circulate among the groups to answer any questions they might have. Give the groups about 30 minutes to complete the assignment.

  Step 4. Cue the participants to complete their tasks and give the News and Managing editors a few minutes to make the decisions on each of the questions and prepare to report.

  Step 5. Place the numbers 1-7 column style on the board. Next to each write: YES and NO. Discuss each question by asking each Managing editor to respond and give the group's reasons. Record each group's response with a slash mark.

  Step 6. Debrief the activity by having the resource person compare these decisions with what might happen in a working newsroom. Conclude the debriefing with the questions on page 33.

'Congress shall make no law...
abridging the freedom of speech, or of the press...'

3. Session 9—The Federal Prosecution

- **Reading and Discussion:** Have participants read **The Federal Prosecution** on page 34 and lead a group discussion using the questions that follow.
- **Simulation: Policy Question/Double Jeopardy**—Conduct a simulation on the issue of double jeopardy in the case of the four officers' federal prosecution using **The Commission Decides** on page 46. Instructions for conducting this simulation are on page 12 of the Instructor's Guide.

4. Session 10—A Question of Equal Treatment

- **Reading and Discussion:** Have participants read **The Trial of the Denny Defendants** on page 38 and lead a group discussion using the questions that follow.
- **Reading and Discussion:** Have participants read **The Color of Justice** on page 40 and lead a group discussion on the questions that follow.

5. Session 11—Issues of Community-Based Policing

- **Reading and Discussion:** Have participants read **A New Era** on page 43 and lead a group discussion on the questions that follow. You also might want to refer participants back to **Perceptions of the Trial** on page 5 and lead a group discussion comparing their initial reactions with their current opinions and observations.

OPTION 4—Full Implementation (15 to 20 hours): This option gives instructors the opportunity to cover all of the strategies employed in the materials. It anticipates both class and outside work. For full implementation:

1. Conduct all simulations described in the sequence outlined above.

2. Conduct all **Policy Question** activities in the sequence outlined above using the model described in **The Commission Decides** on page 46. To complete the simulation, follow these steps:

Step 1. Divide participants into groups of four or five. Have participants read the Introduction and Directions on page 46. Assist groups in forming their commissions and assigning roles if necessary. Make sure that each member of the commission understands his or her role.

Step 2. Have participants review the background reading and the **Policy Question.**

Step 3. Have participants conduct their discussions of the policy by answering the questions outlined under Step 3 on page 46. Allow about 20 minutes for them to complete this task.

Step 4. Cue participants to begin preparing their reports. Allow about 10 minutes for this task.

Step 5. Call on the chairperson of each commission to make the report. Ask individual commission members follow up questions, as appropriate.

Step 6. Debrief the activity by asking:

- How can individual citizens influence the policy making process?
- How can citizens working in groups influence the policy making process?

3. Encourage participants to become involved in trying to improve police-community relations by completing the **Taking Action** exercises included in the materials. The following are guidelines for implementing this feature:

- Description—**Taking Action** consists of three parts:
  - **Taking Action/What's the Problem?** on page 11 challenges participants to assess the community to determine the state of police-community relations with a survey activity.
  - **Taking Action/What's the Policy?** on page 18 encourages participants to interview police officers and legal professionals to determine what police practices are in effect in their community.
  - **Taking Action/ What Can We Do?** on page 45 consists of an action planning model with which participants can create and implement a project for improving police community relations.
- Options—**Taking Action** can be used in two different ways:

  Option 1: Ongoing—If this option is selected, simply conduct the three **Taking Action** activities as a regular part of the groups's work. This will require additional time to set up each activity and have participants report back to the group. The advantage of this option is that it permits participants to immediately apply and compare what they have learned in the

materials to the concrete reality of their own communities and develop an immediate sense of empowerment in working to improve conditions.

Option 2: Cumulative—If this option is selected, conduct the three **Taking Action** activities as an expansion of the unit after all of the sessions have been completed. Using this option, the participants can work more independently and spread the tasks over a longer period of time, reporting back to the group as necessary. The advantage of this option is that participants will have a deeper understanding of all the issues involved before they focus on the specific realities and needs of their own communities.

- **Role of Instructor:** With **Taking Action**, the role of the instructor shifts somewhat from teacher to that of mentor and coach. It is important that participants take primary responsibility and leadership in all aspects of the project. The primary functions are to help participants: 1) Interpret survey and interview data to determine a community need; 2) Identify resources for project implementation; 3) Establish realistic and workable goals; 4) Critique strategies and methods and suggest positive alternatives, if necessary; 5) Motivate participants to take self-and group-initiative; 6) Monitor and guide progress; and 7) Facilitate a realistic evaluation of group progress and results.

A GUIDE FOR IDENTIFYING AND PREPARING RESOURCE VOLUNTEERS

Classroom visits from informed professionals can be a valuable teaching tool. Resource experts serve as role models and make community institutions more familiar.

Identifying experts and arranging visits is not difficult. The public information offices of local or state law enforcement agencies, the courts and bar associations are all good sources for contacting people from the justice system. The Chamber of Commerce, the Better Business Bureau, professional organizations and unions can connect you with speakers from business, industry, and labor. Politicians' constituent service offices can identify appropriate speakers from government institutions. Finally, use the faculty of your local college or university.

When you contact an appropriate individual to make arrangements, be sure to:

- Explain the purpose of the visit. Briefly describe your objectives for the guest's participation.
- Place the visit in context. Explain the group's current field of study, your planned follow-up activities. Provide the resource person with the specific materials you will be using and explain the role the resource person will take in the presentation or activity.
- Describe the audience. Tell the speaker how many participants will be present and briefly characterize their age, interests, and background.
- Specify the scope of the presentation, both in time and content. Be sure this reflects the grade level, maturity, and attention span of your class.
- Request specific dates and times. Suggest two or three alternatives from which your guest can choose. A resource person may require several weeks notice.
- Be sure the visitor has the correct address, appropriate directions, and knows where to park.

After arranging the visit, if in a school setting, confirm it with the principal and other appropriate personnel. It is probably wise to get final confirmation from the resource expert a few days before the presentation.

TO MAKE THE VISIT MOST EFFECTIVE

- Prepare the groups. Discuss the purpose of the visit and provide basic information about the speaker. Having the group compile a list of questions to ask the expert is a useful activity.
- Remember that resource experts are not trained teachers or instructors. During the presentation, you will need to direct both the speaker and the group with appropriate questions and other clues.
- Allow sufficient time at the close of the session for a summary of the presentation and a thank-you to the guest. Thank-you letters give speakers a particular satisfaction and, in a school setting, give students a good language arts experience.
- In addition to the debriefing questions in the following materials, ask participants to comment on what they learned from the experience and how it influenced their views about the speaker's profession or topic. Encourage their constructive suggestions for improving such experiences.

A GUIDE FOR MANAGING CONTROVERSIAL ISSUES

Controversy is a natural and essential part of our democratic system. This is particularly true when discussing issues of police misconduct, racial relations and discrimination and proposed solutions to these problems. Moreover, due to the controversy over the beating of Rodney King and the ongoing criminal prosecutions, some of the readings and hypothetical examples in these materials may be particularly sensitive. They were developed to serve two purposes: 1) To provide a factual basis for the discussion of the issues, and 2) To generate critical thinking, debate, and analysis of public policy on the part of participants.

Although each of the readings was extensively researched and reviewed to assure accuracy and a balanced presentation, a certain level of controversy is likely and should be encouraged if it is constructive and productive.

However, if destructive or unproductive controversy arises in the course of presentation, try to clarify the nature of the disagreement by:

- Identifying the issue or issues under dispute.
- Identifying areas of agreement and disagreement.
- Identifying underlying assumptions and establishing a factual base.
- Challenging participants to concretely define terms and support opinions or statements with facts and reasons.

The process of definition may bring the subject to closure. If not, use an appropriate strategy for addressing the controversy such as a discussion, research, formal debate, an anonymous writing assignment, mediation, or a forced perspective activity in which students must argue an issue from the "other" side. Some of these activities can be completed outside of the group or on an individual basis.

To help reduce unproductive controversy, establish certain ground rules.

- Participants must argue ideas, not personalities.
- Participants must represent the opposing position(s) fairly and accurately.
- Participants should attempt to understand the opposing perspective(s).
- Participants should be encouraged to admit doubts and weaknesses in their own position.
- Above all, the argument should concentrate on evidence.
- Participants should be given a chance to air their own views, hear their opponents' views and examine both.

In some cases, controversy cannot and should not be resolved. In such cases seek closure by having participants agree to disagree until more information is available or new arguments for one side or the other arise. Assure participants that closure of a controversy does not mean one side wins, nor does an individual need to abandon his or her beliefs, and that there will be future opportunities to discuss the issue.

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Constitutional Rights
Foundation
CRF